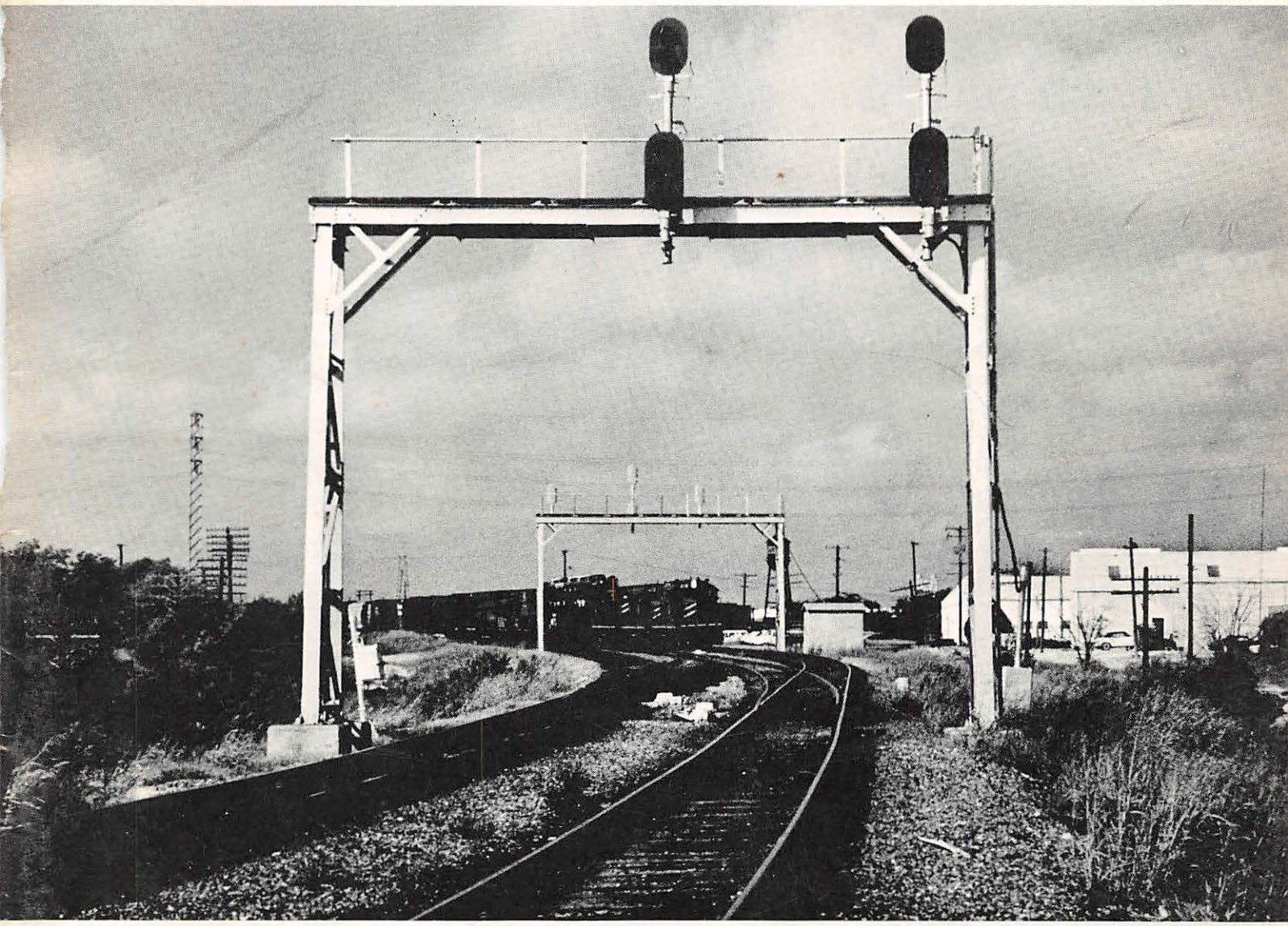
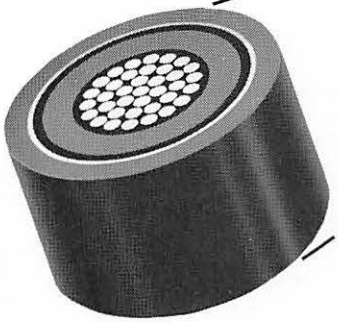
The Signalman's JOURNAL

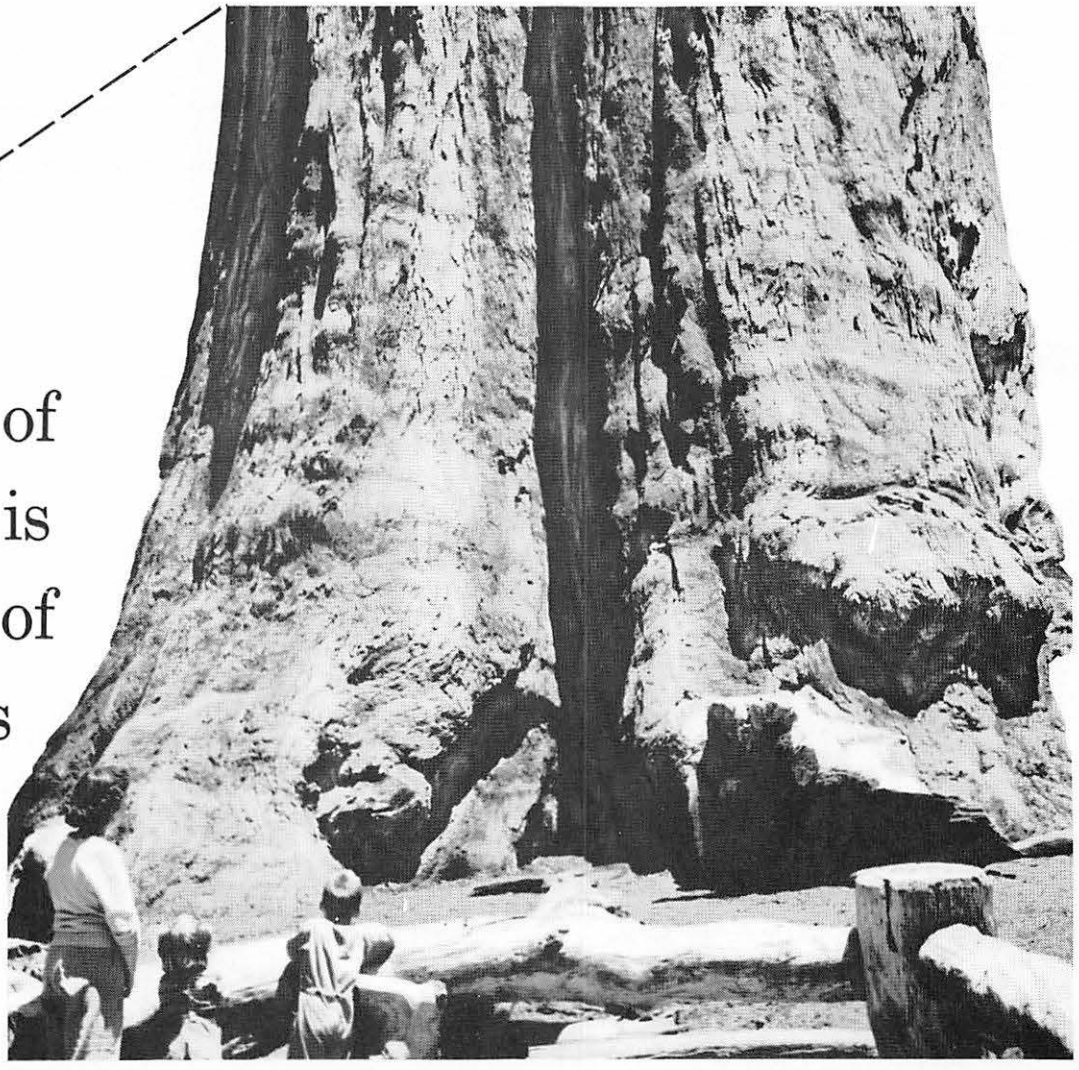
APRIL 1971



President C. J. Chamberlain's Message

Signalmen Present Wage Case To Board





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Chicago, IL 60625

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1117 So. Wilke Road
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220 South State Street
Chicago, IL 60604

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M. B. FRYE
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Chicago, IL 60625

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Bristol, TN 37620
Telegraph Address:
Abingdon Highway
Bristol, VA

B. H. STEUERWALD
Room 804, 400 First St., N.W.,
Washington, DC 20001

Director of Research

W. D. BEST
2247 W. Lawrence Avenue
Chicago, IL 60625

Grand Lodge Representatives

A. N. COTTON
2515 Portage Ave., Suite 204
Winnipeg 12, Man., Canada

G. F. HARPER
2247 W. Lawrence Avenue
Chicago, IL 60625

W. B. HARWELL, JR.
2247 W. Lawrence Avenue
Chicago, IL 60625

H. A. STOCKDALE
Room 508, Crescent Bldg.
1411 Crescent Street
Montreal 107, Que., Canada

J. W. WALSH, JR.
2247 W. Lawrence Avenue
Chicago, IL 60625

Board of Trustees

C. R. SCOTT, *Chairman*
Room 508, Crescent Bldg.
1411 Crescent Street
Montreal 107, Que., Can.

W. W. LAUER, *Secretary*
122 W. Franklin Avenue
Monmouth, IL 61462

G. A. HARRINGTON
P. O. Box 489
Cheraw, SC 29520

OFFICIAL PUBLICATION BROTHERHOOD OF RAILROAD SIGNALMEN

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A Message From President C.J. Chamberlain

ON FRIDAY, MARCH 26, 1971, we concluded the hearings before Emergency Board No. 179, in Washington, D.C. The testimony, evidence and statistical data presented by the Brotherhood of Railroad Signalmen clearly supported the case for the signal employes involved in our October 1, 1969 and May 18, 1970 Wage and Fringe Benefits disputes.

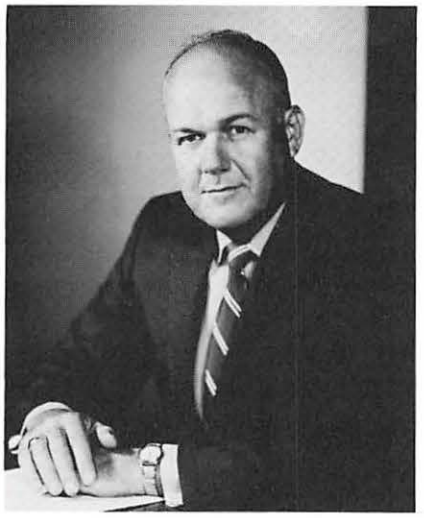
Once again we were subjected to the same barrage of distorted figures and facts from the Carriers' representatives, and once again we had the opportunity to listen to testimony of certain signal officials who attempted to play down the importance of their skilled signal employes and the contribution they make to the railroad industry.

It is indeed pathetic to see Carrier signal officials attempt to downgrade their subordinates in the signaling ranks and minimize the importance of the signal maintenance and construction positions. We can expect such faulty testimony and remarks from Mr. Hiltz and company, as none of them have had practical experience in the signaling profession, and it is quite evident that they are not too desirous of gaining any practical knowledge of the important contribution the signal and communication employes play in the operation of a railroad.

It is hard to conceive how any competent, knowledgeable and practical signal officer can conscientiously testify that the work load of signal employes has decreased. It was stated by one of the signal officers who testified that the evidence presented by the Brotherhood showing the new installations of signal equipment and devices on the various Carriers was distorted because we did not show equipment which had been removed.

Anyone familiar with the factual situation on most every railroad knows that very little equipment is removed. Existing equipment may be replaced or renewed and, in most every case, new systems or devices are placed in service in addition to existing systems.

It was further alleged that "Many times the installation of new equipment imposes no additional duties upon signal employes. In fact . . . . these improvements have actually resulted in a decrease in time



and effort required of the signal maintainer."

We could go on and on relating the words of wisdom of our signal officialdom friends, however, after listening to such Carrier diatribe over a period of two weeks we would rather forget it, as it only serves to rile the emotions of true Signalmen, and at this point cooler heads must prevail as we enter the crucial stages of our negotiations.

We are not saying that we are laying it aside forever, because we are not. In due course we will print in The Signalman's Journal the verbatim proceedings of testimony of the signal officials who testified at the Emergency Board 179 hearings. We consider it appropriate to bring to the attention of signal employes on their respective railroads, and all signal employes in the United States and Canada, their views as to how technological improvements and new signaling devices have made the lot of signal employes on the nation's railroads a literal life of Riley.

The testimony will speak for itself and I am sure it will be enlightening to most signal employes, who according to Carrier officials, have never had it so good!

At one point in Mr. Hiltz's testimony at Emergency Board 179 hearings, he stated that he could not agree with the assertions of President Chamberlain that there was no real collective bargaining in the handling of our two notices, and he stated that insofar as the Carriers are concerned, they were and are anxious to make an agreement.

Let's look at the record to determine just how anxious they really are. We are now in the eighteenth month since the October 1, 1969 Wage Notice was served. We have met with the Carriers on five occasions during that period. Total time consumed in such conferences did not exceed eight hours. *It is quite obvious that he is really anxious to make an agreement.* Several telephone calls to his office during that period of time resulted in my being informed that his committee was busy with other organizations. *It is quite obvious that he is really anxious to make an agreement.* In a conference on December 7, they requested that we consider making an offer from our notices which would be given thorough consideration by their committee. This was done and, of course, our offer was rejected. They in turn submitted a counter offer which was an insult to our intelligence and the so-called negotiations were promptly halted. *It is quite obvious that he is really anxious to make an agreement.* Subsequent events resulted in the establishment of the Emergency Board No. 179 on March 4, 1971. Mr. Hiltz, at the hearings on March 22, 1971, made a formal recommendation or proposal to the Board that our dispute be settled on terms which were *less* than what he offered us in direct negotiations on January 7, 1971. *It is quite obvious that he is really anxious to make an agreement.* It is also quite obvious that Mr. Hiltz thinks that we are some kind of fools and that perhaps if he waits long enough we might go away. I am afraid that once again Mr. Hiltz is wrong. The good Lord willing, we will be around for a while, and so will the Brotherhood of Railroad Signalmen. Maybe sometime between now and May 14, 1971, Mr. Hiltz might find that once again he is *"really anxious to make an agreement."*

Incidentally, the names of the signal officials who testified for the Carriers and against the Brotherhood of Railroad Signalmen at the Emergency Board hearings are: Mr. B. J. Hutton, Signal Engineer, Eastern Lines, Atchison, Topeka & Santa Fe Railway Company; Mr. J. I. Adams, Chief Engineer, Louisville and Nashville Railroad Company; and Mr. J. P. Powell, Superintendent Signals, Louisville and Nashville Railroad Company.

Emergency Board No. 179

Signalmen Present Their Wage Case To Board

THE OFFICERS OF THE Brotherhood of Railroad Signalmen presented a forceful case to Emergency Board No. 179 when hearings commenced in Washington, D.C. on March 15.

The initial session opened with Attorney D. W. Bennett summarizing the Brotherhood's case.

The Board will investigate and make recommendations to settle disputes that involve wages and fringe benefits of railroad signalmen.

He pointed out to the Board that signalmen are highly skilled men who install, maintain, test and repair the railroad signal devices and systems that are vital to safe and efficient railroad operations.

The disputes before the Board originated over 17 months ago when a request for a wage increase was served by the signalmen.

He stated it was understood the basic purposes of this Board are, (1) aid the parties in an investigation and study of the dispute and, (2) to submit recommendations that will form the basis for a voluntary settlement of the dispute by the parties.

To aid the Board, Bennett said the signalmen would present their position as orderly and expeditiously as possible. The Brotherhood's facts would be presented through only five witnesses and ten exhibits and these witnesses and exhibits would focus upon the main issues of the dispute.

The increased skills and responsibilities of signal department employes have not been recognized in present wage rates. The wage rates have lagged behind wages of other employes with similar skills and responsibilities both in the railroad industry and in other industries.

The items contained in the 1969 Wage Notice and the 1970 Fringe Benefit Notice involve three main issues: (1) wages of signalmen, (2) correction of inequities of working conditions, (3) improvement in pay practice and fringe benefits of signalmen to those prevailing in the railroad industry and in industry generally.

Since January 1, 1969, he noted, the signalmen, with an increase in wages of 3.5 percent have been subject to a cost of living raise of 6.1 percent in 1969 and a 5.5 percent in 1970. This lag in the signalmen's wage progress, compared to national wage adjustments and the increase in cost of living, must be corrected in the present wage movement.

The productivity of railroad signalmen has continued to increase since the last wage agreement in 1968. The trend of recent years has continued in the past two years;

The members of Presidential Emergency Board No. 179 who investigated and will make recommendations for settlement of the signalmen's wage and fringe benefit dispute with the nation's railroads are shown above, left to right: Mrs. Jean T. McKelvey, Paul N. Guthrie, chairman, and Thomas G. S. Christensen.

that is, Bennett stated, that additional signal equipment has been installed each year adding to the total signal equipment on the railroads. However, the total signal force and signal maintenance force has declined. In essence, fewer signal employes are maintaining, testing and inspecting more signal devices, that are constantly becoming more complex.

Bennett noted a railroad trade magazine reported that during 1969 and 1970 Class I railroads installed the following items:

—1,635 track miles of traffic control and block signal systems with 1,497 signals and 388 electric locks

—New signal equipment included: 1,285 highway grade crossings protected with flashing lights only and 978 highway crossings protected with flashing lights and gates for a total of 2,263 additional crossings protected

—78 interlockings with 335 signals

—460 safety detectors that include 260 hot box detectors and 200 dragging equipment detectors.

All of this equipment represents new signal equipment that is maintained, tested, repaired and inspected by signal employes.

The Federal Railroad Safety Act of 1970 places renewed emphasis on the problem of highway grade crossing safety. The protective devices for crossings are becoming more important, and will be installed in increasing numbers in the future.

Futher, a 1969 study for the Federal Railroad Administration shows that there are 30,000 crossings that now need immediate improvements in protection. There are now about 225,000 grade crossings in the United States, and 45,000 now have some type of protection such as gates and flashing lights. During 1970 over 1,000 crossings received automatic protection—thereby increasing the responsibility, output and work of signal forces.

As a result of the recommendations of Emergency Board No. 175 the skilled signal employes received a skill differential in 1968. This was a partial and belated recognition that signalmen have long been paid far below comparable wage rates of skilled employes on the railroads and in other industries. The rates of pay for signalmen at the end of 1969 and now, (average $3.81) are still far below the average rates for comparable occupations, although the knowledge, skill and responsibility required of signalmen are as great and in most cases greater.

Bennett stated the second major issue before this Board involves the correction of oppressive working and living conditions that are peculiar to signal employes. Because of the duties, responsibilities, nature and location of their work, signal employes have some unique working conditions. They create inequitable situations that have gone uncorrected far too long. The Brotherhood now insists that these conditions be corrected.

He said that signal maintenance forces are required to, and do, respond to calls by the Carriers to work after normal hours, on weekends and holidays to correct signal malfunctions. These employes are subject to such calls at all times and are required to respond promptly whenever they are called. This additional responsibility should require additional compensation.

Certain signal construction forces are required to work hundreds of miles from their homes and live at construction sites during the work week. The living conditions of these employes on many Carriers' cars is deplorable and shocking. It is time that all carriers eliminated the unsatisfactory camp cars and paid these employes the actual expenses for meals and lodging.

In addition, Bennett stated, these construction employes, working great distances from their homes, should be compensated for the time and expense of making weekend trips to their homes.

Other signal employes are subject to reassignment of their headquarters point when the Carriers reassign signal forces. When these signal employes are forced to move their residence by the Carriers, justice requires that the Carriers reimburse the employe for the actual moving expense.

He then said the last point in this issue involves the training and retraining of signal employes. Adequate training, through a formal training program, to become skilled signalmen is of vital importance to the employes, as well as the Carriers. The Brotherhood proposes the establishment of national standards for an apprenticeship training program. The Board was told that Brotherhood witnesses would explain in detail these parts of the dispute. They will show the necessity for the correction of these working conditions. In addition, they will show how a few Carriers have rec-

The signalmen's committee that presented the organization's case to Emergency Board No. 179 are shown above, left to right: Vice Presidents C. S. Chandler, J. T. Bass, B. H. Steuerwald, Director of Research W. D. Best, Secretary-Treasurer R. T. Bates, President C. J. Chamberlain, Attorney D. W. Bennett, Grand Lodge Representatives G. F. Harper and J. W. Walsh.

ognized these inequities and have corrected them.

Based on the evidence presented, a recommendation from this Board would require all the Carriers to correct these situations.

The third part of the Brotherhood's case involves improvements in fringe benefits, Bennett stated.

For example, jury duty leave has been granted in national agreements with other crafts of the railroad industry.

He told how signalmen lag behind other industries in provisions for such items as shift differentials, bereavement leave, longevity pay and double time rates for overtime.

In line with recent development in industry, the signalmen had requested increased vacation and holiday benefits.

In summing up Bennett stated that the heart of the dispute before the Board is the Brotherhood's continuing effort to achieve real progress for the signal employes it represents; that is, progress in terms of wage rates that are equitable with those of comparably skilled employes and progress in terms of improved working conditions.

National negotiations take a long time. Progress in the railroad industry comes slowly. Correction in wage inequities and working conditions can only be achieved through determined and persistent efforts.

The issues before Emergency Board No. 179 are the employes' request to:

(1) correct the gross inequity in wage rates,

(2) correct and improve the unsatisfactory living and working conditions,

(3) correct the lag in the fringe benefits.

President Chamberlain led off the Brotherhood's witnesses with a strong opening, stating it is the Brotherhood's desire to move our wage case as expeditiously as possible.

He testified that the wage-fringe benefit demands were fully justified by the fact that signal employes are required to possess the highest skills to perform signal maintenance and construction services for the Carriers.

Also that no other segment of the railroad industry has changed so vastly or rapidly as signaling systems and that it is an indisputable fact that railroad signalmen contribute immeasurably to the speed, safety and efficiency of railroad operation.

Signaling is a primary reason for the progress of the railroad industry, yet the Carriers continue to pay wages to skilled signal employes that are not only substandard but ridiculously low.

Chamberlain stated the inequity of wage rates and the deterioration of working and living conditions for signal employes in the railroad industry, compounded by a rapid accelerated cost of living during the past several months, has placed signal employes at the bottom of the heap in the railroad labor force. Further, he could say without fear of contradiction that our membership's patience is completely exhausted and nothing but an agreement removing all of these inequities will prevent another national rail crisis as soon as the signalmen are legally free to use their economic strength.

Signal employes are the highest skilled group in the industry and they perform their duties under conditions to which no other labor force is subject.

The shortage of skilled signal employes on virtually every Carrier in the United States reflects the substandard rates and working conditions.

The vast majority of skilled signalmen get only from $3.78 to $3.81 an hour. Common laborers in numerous occupations have received increases which far exceed those granted the skilled signal employes over the same period. He termed it an insult that skilled signalmen should be put in the present embarrassing substandard posture in the labor force in the United States.

With the exception of signal repair shops, all signal employes must work outdoors and perform their duties under the most adverse weather conditions. In fact, he stated, severe weather conditions, rain, lightning, snow and sub-zero weather almost insure the signalmen that they will be faced with trouble shooting on failures in addition to their regular maintenance duties. Signal employes assigned to maintenance sections, for the most part, work alone. There is no occupation that exposes a man to more dangerous and hazardous working conditions than a signal employe working alone at night, operating a track motor car, climbing poles, checking circuits, adjusting or repairing power switch machines or any of the many other duties he may be called upon to do in clearing trouble so that trains can be moved as expeditiously as possible.

Most signal maintenance forces are subject to call for overtime service after regular working hours and on weekends for which they receive no compensation. While recognizing the need for immediate repair of signal facilities to insure train operation our members cannot

Economic consultants from the Robert R. Nathan Associates, Inc. firm who assisted the signalmen's committee in presenting their wage case before Emergency Board No. 179 are shown above, left to right: Mrs. Harriet M. Kriesberg, Edward D. Hollander, Attorney Donald W. Bennett and Mrs. Sarah Leiter.

be expected to provide this service which imposes an infringement on their free time without additional compensation.

On living conditions and expenses allowed signal employes when they are required to work away from home, Chamberlain told the Board, many Carriers still provide living quarters in primitive outmoded camp cars that date back to the nineteenth century. The public and the Board would be shocked to actually see the primitive quarters in which a majority of the railroads require signal employes to live.

To compound this intolerable situation, he said, Carriers allow only $1.00 or $2.00 a day for meals, depending on whether a cook is furnished and employes still must provide and pay for the food. Where no living or cooking facilities are provided the railroads allow only $7.00 a day toward both meal and lodging expenses.

Signalmen are not allowed any expense money for weekend trips home. Also employes who are required to work away from home are placed at a definite disadvantage because of substandard living conditions and the financial burden placed on them due to the meager allowance.

Chamberlain said the union seeks actual, necessary expenses for meals and lodging for all employes assigned to jobs away from their home bases, plus allowance for expenses to return home weekends, and called for the abolishment of camp cars as lodging facilities.

Attorney D. W. Bennett opened the hearings with a statement that outlined the case that the signalmen would present to the Board.

The signalmen could not overemphasize the importance of obtaining sick leave allowance. The members regard this as an absolute must.

Chamberlain told the Board our March 1, 1968 Wage Movement gave us recognition as a separate important craft unit within the railroad industry. "We gained recognition but our members now must have more than that because you can't eat recognition."

The signalmen insist that in this move we obtain an agreement taking us from the bottom of the heap to the top, because facts and data show without a doubt that is where we belong.

He told of hearing from industry spokesmen that the "tail can't wag the dog." While we fail to see where this applies to signalmen, we can only assume it means small numbers cannot set the pace for wages, working conditions and other benefits.

If numbers alone and not skill, responsibility or working conditions determine an employe's worth, then those taking this ridiculous position should be assured that this theory will not apply to our organization members.

We are determined to get rates of pay, expenses, allowances and working conditions that we are entitled to and which are commensurate with our skills and responsibilities. He declared we will no longer accept the crumbs that have been given over the years. We are entitled to the whole loaf and we intend to get it.

Signalmen have no restrictive work rules and the Carriers have flexibility with the use of signal forces. The signalmen will not agree to any rule which would permit crossing of craft lines.

He told the Board that it would be a good idea for the Board to personally inspect some of the various signal installations in the immediate area. Visual observation unquestionably portrays a better understanding of the issues being presented and discussed with this Board.

In conclusion, President Chamberlain said, the Brotherhood's demands are most reasonable and he expressed hope and confidence that the Board would agree and make appropriate recommendations which will correct the inequities that exist and lead the way to an honorable settlement.

He cautioned the Board that the signalmen would not accept anything less than an agreement placing them at the contract's expiration where our members could still hold their heads high and not be forced to say, "me too."

The Brotherhood's 12,000 members can use their collective strength just as effectively as a larger organization. "We will take such action if we do not get a satisfactory agreement placing us out front where we belong," he vowed.

President Chamberlain asked the Board to listen to all the evidence and testimony presented in the proceeding, closely evaluate the facts

The signalmen's first witness was President C. J. Chamberlain, who in a strong opening statement summarized the signalmen's case from the time the notices were served.

and govern their recommendations by the true merit of our case.

Theme Set

With the theme set, the Brotherhood's next witness, Secretary-Treasurer R. T. Bates, took the stand.

Bates told the Board he would like to call their attention to our October 1, 1969 Notice which dealt with additional compensation for employes required to be subject to call by the Carriers, interest on retroactive pay settlements and the paragraph of our May 18, 1970 Notice that dealt with moving expenses.

Subject To Call

Being subject to call is a condition imposed upon employes represented by the signalmen by tradition, practice or operating and/or agreement rules. In most cases the Carrier has traditionally contended they have the unilateral right to impose these operating rules.

Adjustment Boards and other tribunals have often held the Carrier does have this unilateral right to impose such operating rules upon the employes in order to operate their railroads in a safe and profitable manner.

Bates gave the Board examples of how carriers interpret such operating rules in any manner that might strike their fancy. He cited an instance when he was a general chairman and had to assist in representing an employe at an investigation dealing with the member allegedly failing to respond when called.

It was also noted that a recent Third Division Award by the National Railroad Adjustment Board found that being subject to call was an obligation of the employes for

Vice President John T. Bass explained to the Board how employes' training over the years has come about as a result of their own initiative and interest in their jobs.

Secretary-Treasurer R. T. Bates testified that being "subject-to-call" places signal employes in a position where they have very little time for personal commitments.

which they should not be compensated.

Bates told the Board, being subject to call places an employe in the position where he must respond promptly to call regardless of (1) what personal commitment he must forego, (2) weather conditions, (3) time of day or night, (4) his physical condition or, (5) whether or not he has had an opportunity to rest after performing other lengthy tours of duty.

No other occupation, known to the Brotherhood, requires employes to be subject to call under such conditions, unless the employes are properly compensated for such service.

He then called attention to the paragraph of our notice requesting that Carriers provide reimbursement for all actual expenses involved in moving employes from one point to another when they are required to change their place of residence due to positions being abolished, rearrangement of forces, reorganization, or changes in employes' headquarters point.

Over the years the Carriers have zealously contended that they have the right to discontinue positions, establish new positions, and change positions at any time and in any manner. In most cases, Bates said, the reassignment of employes is done at the sole expense of the employes involved in such a reorganization. If nothing more, the Carrier is morally obligated to pay the employes moving expenses when relocation of the employes is caused by the Carrier.

He explained that many of our working agreements require the Carrier to furnish the employe's transportation to move his household goods when changing work locations. In very few cases do employes avail themselves of this provision of the agreement. The main reason is that the Carrier in complying with this provision will simply set out an empty box car which may have previously been loaded with fertilizer or some other equally obnoxious commodity.

An additional factor in moving expense costs is the merger and coordination of properties which in turn requires the employes to make more and longer moves.

Bates stated the time is long overdue for the Carriers to recognize their responsibility of being in a position to change an employe's entire life by changing his place of employement and residence and imposing a financial loss upon the same employe.

He then went on to the signalmen's request that interest be applied to retroactive pay increases. The reasons for this request are quite obvious. A good example of the inequity of the Carriers using the money rightfully belonging to the employes is illustrated by our last wage movement. The notice was served on the Carriers on March 1, 1968 and the agreement was not signed until April 21, 1969. The wage increases were granted retroactive to July 1, 1968, nearly 10 months prior to the effective date of the wage increase agreement, during which time the Carriers were able to derive the benefit of using the employes' money. It is very obvious, he said, that the Carriers by stalling negotiations for as long as possible under the law are rewarded by using this money over the many months delay.

Bates said that to further impose a penalty on the employes and none

Director of Research W. D. Best explained the signalmen's survey and explained the contents of the exhibits presented to the Board.

upon the Carrier, when our last wage agreement was consumated on April 21, 1969, some Carriers failed to make retroactive payments to employes for months after the agreement was signed. When trying to enforce payment the Brotherhood was told by a state labor regulatory body that since there was no enforcement provision or penalty in the agreement the Brotherhood was unable to make any demand upon the Carrier.

We are only asking that these payments be timely to the people we represent. He said he felt the Carriers should readily agree to pay interest on any back pay due the employes as they have been allowed to gain far greater interest on the employes' money than the employes would have been able to earn with the small amounts they would have had to invest.

Bates noted if the Carriers really intend to make the retroactive payments timely, they should have no objection to inserting a penalty clause in the agreement, since no penalty will exist if the payments are made timely.

Bass Next Witness

The next Brotherhood witness to testify was Vice President J. T. Bass, who informed the Board that in his statement he would discuss the Brotherhood's notice for a formal apprenticeship training program, jury duty leave, paid sick leave, travel time, travel time expenses, and actual expenses when away from headquarters.

Economic Consultant Edward Hollander demonstrated how signalmen are grossly underpaid when compared to similar outside occupations.

On our request for a formal training program, Bass said, it was his experience as a signal employe and union representative for signalmen that one of the most pressing problems in the railroad industry is qualified and properly trained signal employes.

Bass told how the employe has to obtain the necessary knowledge to install, repair and maintain signal systems and then must constantly upgrade that knowledge to keep pace with the constant and continuing innovations being introduced into railroad signaling.

He said that a formal training program when established should be registered with the Department of Labor, Bureau of Apprenticeship and Training, and should provide such standards as length of apprenticeship, type of training, rates of apprentices, working conditions, classroom instructions, qualifications for entering apprenticeship, work of apprentices and promotion to mechanic.

Some Carriers, realizing the importance of formal training, have entered into agreements with our organization to provide such training courses for signal employes.

During the past eight years, signal employes have purchased almost 13,000 volumes of a training course that is provided by the Brotherhood. These 13,000 volumes were purchased voluntarily by our members with their own funds. This obviously proves that over the years employe training has come about as a result of the employes' own initiative and interest in their craft.

The training now received by a new signal employe is primarily on-the-job-training; that is, by working with and receiving instructions from experienced skilled men.

Many signal employes continue their technical training and education through various vocational and night schools and home study courses, largely on their own time and at their own expense.

Bass stated a formal apprenticeship training program is of the utmost importance so that properly trained signal employes will be available to install and maintain signal systems that Carriers will be installing as a result of the advanced technology.

On jury duty, he said, other railroad organizations have negotiated national agreements providing for jury duty leave. He also said it was noteworthy that the State of Alabama provides by law for payment of lost wages to employes serving on juries.

On our request for sick leave pay, Bass indicated that some agreements in the railroad industry on some Carriers provide for sick leave pay. He also noted that sick leave is be-

The signalmen's committee took advantage of all recesses in the hearings to discuss the proceedings and plan their rebuttals. Here Brothers Bates and Chamberlain discuss the proceedings with Attorney Bennett and Economist Hollander.

coming a common practice in most outside industry.

He then called attention to our request for a rule to provide actual meal expense when an employe is away from his headquarters point during the assigned meal period.

The Carriers maintenance forces would benefit most from this request, as they are required to work on extensive territories, many miles from their headquarters, in all kinds of weather, returning to their headquarters point at night.

Carriers now reimburse their officers, some key employes, and some Carriers reimburse communication and certain signal employees, for the cost of their meals.

Bass then discussed our request that the Carriers furnish transportation for those employes who live away from home during their work week. He said the Carrier should furnish or reimburse employes for the cost of weekend trips to-and-from their homes. He also said our request included pay at the employes' straight time rate for time spent traveling to-and-from their homes.

Take home pay of these employes is small enough without the added burden of the cost of transportation. The burden of the cost of transportation and time spent traveling without reimbursement has existed far too long and must now be removed.

He cited many examples of the hardships and added cost that our members assigned to signal gangs must endure. In every instance cited, the members earnings are reduced because they have to assume the cost of transportation and travel time. It is unfair and unrealistic to expect these signal employes to continue to work under this financial burden and he asked the Board to recommend relief.

Bass then explained our request that the Carrier pay actual expense for meals and lodging for employes required to live away from home during their work week.

He explained how many Carriers house the employes in camp cars or camp trailers. As a result of Arbitration Board No. 298 Award, effective September 1967, many Carriers pay the employes $1.00 a day if cooking and eating facilities and a cook are furnished; $2.00 a day if cooking and eating facilities are furnished but no cook furnished; and $3.00 a day if no cooking, eating facilities or cook are furnished. Also under the award, if the Carrier does not furnish sleeping quarters, the men receive $4.00 per day.

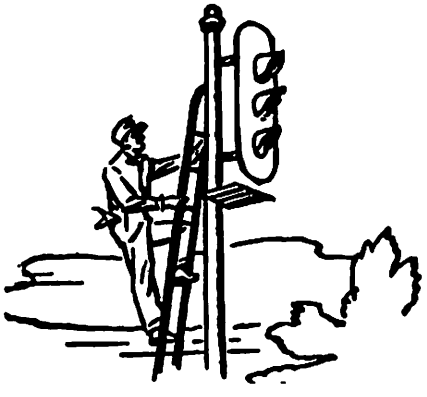
Bass explained the primitive conditions under which these signal gang employes live: The lack of sanitary water to cook; the never ending problem of hot and cold water; facilities for several men to wash, shave and bathe; the small space in which these men are required to live for more than 200 days a year. Also, these cars are cold in the winter and hot and uncomfortable during the summer. But the gravest need of these people are toilet facilities. Almost all toilet facilities in camp cars are outdated or not provided by the Carrier.

He said camp cars or camp trailers now used on many railroads are embarrassing to the fine signal employes who are required to live in them.

It is fair to say that the United States Army provided better living facilities for enlisted men during World War II than most Carriers provide for their signal employes who are required to live away-from-home during their work week in 1971.

The Board was then taken to the Labor Department Auditorium where the Brotherhood presented colored slides showing the decayed, dismal and depressing conditions of some camp cars. The slides projected on the screen showed bunk cars parked dangerously close to adjoining tracks, bad entrances lacking guard rails, broken windows, ancient and unworkable heating facilities, inoperative indoor toilets and inadequate outdoor toilets.

The unsanitary cooking facilities and poor, or in many cases, lacking shower facilities was enough to request the Board's recommendation to do away with all camp cars and place employes required to live away-from-home in proper accommodations and to reimburse these employes for the actual cost of meals and lodging.



W. D. Best Tells Of Survey

Our next witness to testify was Director of Research W. D. Best. He stated that in addition to his other duties, he helped plan and direct the membership survey recently undertaken by our Brotherhood. Exhibits 4 and 5 contain data from our membership survey. He then stated the decision to undertake a survey arose from the Brotherhood's need for information about wages, working conditions and responsibilities of signal craft employes.

Some limited information is available from other sources but many areas of interest to the Brotherhood had never been investigated.

Best stated the potential use of the results of the survey were obvious from the beginning. Some findings would contribute to current negotiations; others might reveal areas where corrective action could be sought in future negotiations.

He anticipated that the findings could be helpful in improving substandard situations on individual carriers not requiring or not susceptible to national handling and thus offer a great opportunity to the organization to serve its members.

Best said it was also anticipated that survey information would be useful in the organization's dealings with the Federal Railroad Administration, the Interstate Commerce Commission, the National Railroad Adjustment Board, and the Railroad Retirement Board.

The current negotiations were not the only or even the prime motive of the survey. He said this was supported by the fact that all members were covered, including many not affected by the current negotiations, namely, the Canadian Locals and Long Island Local 56.

Beyond these very tangible uses of the survey results, there is the undeniable fact that an informed leadership can determine its policy and program action with respect to railroad management, as well as its members in a more rational and constructive fashion.

A survey as comprehensive as the one undertaken by the signalmen takes a long time to plan and execute. He stated if one were to assume that such a survey could not be conducted objectively at any

time before or during labor-management negotiations, then few railroad unions could ever hope to undertake a survey. The time between a settlement and the serving of the next Section 6 Notice would be far too brief to permit the planning and executing of any serious kind of study.

He asked the Board to inspect the copies of the survey presented to them noting that even a cursory perusal would reveal that it covers topics of genuine interest to the Brotherhood.

An explanation was given on each section of the survey covered, and attention was drawn to instructions appearing throughout the questionnaire to guide the respondent, thus minimizing the possibility of incorrect responses resulting from failure to understand the questions.

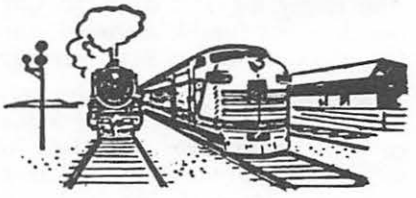
All questionnaires were edited and coded under uniform instructions and with all necessary reference materials, such as agreements, wage schedules, etc. provided to the editors. The coding instruction manual was comprehensive and designed to eliminate inconsistencies and punch cards were verified and subjected to vigorous consistency checks.

The data processing is being handled by two consulting firms with whom the Brotherhood communicates frequently to assure correct understanding of what is to be done. Best stated, not all computer tabulations have been completed.

He then informed the Board that our survey and Exhibit 4A showed that of all signal employes, 85 percent are subject-to-call by their employers, but during December 1969, 29 percent of such employes who were called 65 percent worked from three to six hours after responding to call.

He noted that of all signal employes, 82 percent are assigned to positions which have as a work setting a defined maintenance or inspection territory. Of such employes, 81 percent work along the right-of-way maintaining and testing various signal systems and devices. Also, 71 percent of these employes work by themselves without any direct supervision.

With respect to maintenance and inspection signal employes 63 percent indicated their work load had increased during the last five years because devices had been added to their assignment, territories had



been lengthened, and acts of vandalism had increased.

The survey showed of all employes, 47 percent had no training other than that which was received while working before they were promoted to mechanic. However, nearly 50 percent continued to study after promotion through training manuals, vocational and night schools and through home study courses, all outside of working hours.

Best said the survey reported three-fourths of all skilled employes are required, as part of their duties, to perform the tests which are outlined in the so-called R.S.&I. (Federal Railroad Administration's signal rules).

All 8,511 skilled signal employes have a variety of signal systems and devices on which to work in their current job assignments. The survey showed more than 50 percent have between 8 and 12 groups of systems and devices for which they are responsible.

Of signalmen, maintainers and leaders, 27 percent have maintenance, inspection and testing duties and 20 percent in addition to maintenance and inspection on their territories, must do construction work.

Of the skilled signal employes, 30 percent have six or more interlockings in their assignment and 75 percent of these employes have six or more highway crossing device locations and 60 percent work on voltages which exceed 440 volts, Best reported.

Hollander Presents Wage Comparisons

With these facts established our Economic Consultant Edward D. Hollander took the stand and presented evidence relative to wage comparisons, productivity and recent collective bargaining settlements.

Mr. Hollander demonstrated by comparisons with occupations outside the railroad industry and with railroad shop crafts which were comparable that signalmen are grossly underpaid.

Wages of signalmen were compared with (1) maintenance electricians in 229 standard metropolitan areas, (2) electricians in building trades, (3) electricians in Federal government, (4) signal employes working for six rapid transit systems operating on exclusive rights of way, (5) employes in 10 cities who install and maintain street traffic signals, (6) electricians working for electric utilities and certain related employe groups in the communication industry, (7) mechanics, including electricians, in domestic airline maintenance work, and (8) railroad shop mechanics, including electricians.

These wage comparisons were supported by Hollander by job descriptions showing that signalmen's work is as demanding and skilled as work in occupations with which he compared them.

Hollander concluded that each set of data he had examined demonstrated conclusively that signalmen's wage rates are substantially below those of other workers with similar, and often lesser, skills.

Mr. Hollander explained Exhibits 6 through 10. These exhibits were prepared by the Robert R. Nathan Associates under the direction of Mr. Hollander with the assistance of Mrs. Sarah Leiter and Mrs. Harriet M. Kriesberg.

An outline of the contents of the Brotherhood's exhibits are as follows:

Exhibit No. 1—Summary of Employes' Proposals

Exhibit No. 2—Camp Car Photo

Exhibit No. 3—Signal Systems and Devices

Exhibit No. 4—Working Conditions of Railroad Signalmen

Exhibit No. 5—Summary of Employes Comments

Exhibit No. 6—Economics of this Case

Exhibit No. 7—Recent Collective Bargaining Settlements

Exhibit No. 8—Wage Comparisons

Exhibit No. 9—Fringe Benefits I

Exhibit No. 10—Fringe Benefits II.

Next month the Journal will cover the Carriers' case and reprint excerpts from Carriers' exhibits.

Office of the

SECRETARY-TREASURER

The Importance of a Current Connection

A "CURRENT CONNECTION with the railroad industry" is one of the eligibility requirements for a supplemental annuity, or a regular annuity based on occupational disability under the Railroad Retirement Act. Also, a current connection is one of the criteria for determining whether the Railroad Retirement Board or the Social Security Administration has jurisdiction over any survivors insurance benefits that may be payable. The general purpose of the current connection requirement is to restrict eligibility for the more liberal benefits to career employes; that is, those who have more than a casual attachment to the railroad industry.

The following questions and answers are designed for career men and women who should be aware of the "current connection" provision and its importance.

1. *How is a current connection determined?*

An employe has a current connection with the railroad industry if he worked for a railroad in at least 12 out of the last 30 consecutive months before his retirement annuity begins or his death. Any earlier 30 consecutive month period may be used *if the employe had no regular nonrailroad employment after that period and before his retirement annuity begins or his death.* Self-employment earnings, however, do not affect a current connection.

2. *How does railroad vacation pay count for purposes of a current connection or a supplemental annuity closing date?*

Generally speaking, railroad vacation pay can be used as credit for a month or months of service in establishing a current connection. However, when a railroad employe is retiring, his vacation pay is usually credited to the last day he works unless this is not to his advantage. Therefore, as long as a retiring employe does not work past his closing date, his vacation pay *would not* conflict with his closing date even though he may not receive his check for the vacation pay until sometime after he retires.

3. *I am 63 years old and recently retired on a reduced annuity after completing 25 years of railroad service. If I now work in a nonrailroad job, will it break my current connection so that I will be ineligible to receive a supplemental annuity at age 65?*

No. An employe who had a current connection when his regular retirement annuity began retains it permanently.

4. *I was laid off my railroad job 3 years ago, after more than 10 years of service. Since then I have worked outside the railroad industry. Will I have a current connection if I retire now?*

Probably not. You would retain your current connection only if your nonrailroad work in the past 18 months is not considered to be "regular employment." If during that 18-month period, you worked outside the railroad industry in *any* 3 consecutive calendar quarters and had earnings of $300 or more in any 2 consecutive calendar quarters, you would be considered to have been in regular employment. As a result, your current connection would be broken. However, since you have more than 10 years of service you will still, of course, be eligible for a regular annuity.

5. *I have operated my own trucking business for many years after working for 10 years on a railroad. Do I still have a current connection?*

Self-employment does not break a current connection. If you had no other regular employment during those years, you can receive any benefits for which a current connection is required and for which you otherwise qualify.

6. *I worked regularly for a railroad for 18 years until June of 1969 when I was laid off. After that I started working regularly for a company other than a railroad. If I do not return to railroad work, how long will I retain my current connection?*

Your 30-month period begins with June of 1968. Therefore, if you are working outside the railroad industry and do not return to railroad work, you will retain your current connection only through December 1970.

7. *I have been claiming sickness benefits since I ended my 20-year railroad career two years ago. I understand that sickness and unemployment benefits don't count as railroad service. Will I still have a current connection if I retire now?*

Yes, if you have not engaged in any regular employment since you left your railroad job. Your current connection would be established on the basis of any 30-month period before your retirement annuity begins in which you performed at least 12 months of railroad service.

8. *I receive both railroad and social security benefits. I was told I had a current connection with the railroad industry when I retired 8 years ago. I assume my widow will receive any survivor benefits due on the basis of my earnings from the Railroad Retirement Board.*

Yes, she will. If you have a current connection, which is one of the requirements for the payment of survivor insurance benefits under the Railroad Retirement Act, your widow will receive her annuity from the Board rather than the Social Security Administration. Also, your social security earnings will be combined with your railroad credits for purposes of determining the amounts of the benefits paid by the Board. However, a current connection is not required for the residual payment, if one is due.

President Nixon's Appointments To Presidential Emergency Board No 179

ON THURSDAY, MARCH 4, President Nixon appointed an Emergency Board to investigate the dispute between the Brotherhood of Railroad Signalmen and the nation's railroads.

On March 10, Secretary of Labor James D. Hodgson announced the names of the three member Emergency Board.

Chairman of Board No. 179 is Paul N. Guthrie, chairman of the Department of Economics at the University of North Carolina. Members are: Mrs. Jean T. McKelvey, professor of industrial relations at the New York State School of Industrial Relations, Cornell University; and Thomas G. S. Christensen, attorney and professor of law at the New York University School of Law.

Dr. Guthrie has been an arbitrator since 1946 devoting half of his working time to teaching and half to arbitration. He has vast experience in the railroad and transportation industry, having served as a referee on the National Railroad Adjustment Board and various Presidential Emergency Boards. His professional affiliations include the American Economic Association, National Academy of Arbitrators, and Industrial Relations Research Association. Dr. Guthrie is a graduate of the University of Tennessee A.B. and Columbia University A.M. and Ph.D.

Mr. Christensen is an attorney and teacher with the majority of his working time devoted to academic duties with the balance spent in arbitration.

At present he is professor of law, N.Y.U. School of Law, and executive director, N.Y.U. Institute of Labor Relations. He is also chairman of the Labor Law Department, Graduate Division of New York University School of Law.

Mr. Christensen received his B.A. from the University of Iowa and his J.D. from U. of I. School of Law in 1947.

Mrs. McKelvey is a professor of Industrial Relations at Cornell University.

She has been an arbitrator since 1944 and spends the majority of her working time devoted to teaching with some time spent in arbitration.

Mrs. McKelvey has served as a member of the Public Review Board, U.A.W. since 1960. She was a member of the New York State Board of Mediation serving from 1955 to 1966. Also served as a member of the New York State Statutory Board of Inquiry, Rochester Transit Dispute, 1952, and the public panel member and hearing officer, War Labor Board, New York Region 1945.

Her professional affiliations are: National Academy of Arbitrators, American Arbitration Association, Industrial Relations Research Association and International Society of Law and Legislation.

Mrs. McKelvey received her A.B. from Wellesley College and her M.A. and Ph.D. from Radcliffe College.

This Presidential Emergency Board No. 179 will hold hearings and report its recommendations for settlement of the dispute to the President on or before April 3 unless an extension is granted.

For 30 days after the Board's report is issued, the parties to the dispute are expected to bargain on the basis of the Board's recommendations and neither party is free to take unilateral action for this period.

Write Today To Your Senator And Congressman

Every member of the Brotherhood of Railroad Signalmen is requested to write to their Senators and Congressmen and ask them to support S.832 and H.R.3595.

These are the numbers of the House and Senate bills that were introduced for the signalmen and all railroad labor organizations. The measures will permit railroad workers to conduct selective strikes in order to enforce their just demands and will provide an incentive to real collective bargaining.

Tell them railroad workers should have the same rights as workers in any other industry.

Tell them to work for the passage of S.832 and H.R.3595, bills sponsored by Rep. Harley Staggers (D.,W.Va.), chairman of the House Interstate Commerce Committee, and by Senator Harrison J. Williams, Jr. (D.,N.J.), chairman of the Senate Labor Committee.

And while you're at it ask your Senators and Congressmen to help defeat S.560, Nixon's anti-strike bill.

The Nixon measure, known as the "Emergency Public Interest Protection Act," would virtually erase the Railway Labor Act.

Compulsory arbitration must never be imposed on our nation's railroad workers.

Also ask your family and friends to write as the passage of this legislation is very important to our organization.

Attend Your Union Meetings

Signalmen Successful In Preventing Penn Central From Removing Derails

THE PENN CENTRAL'S APplications to the Federal Railroad Administration for removal of split point derails at drawbridges on the main line between Boston, Mass. and New York City, have been denied by a federal railroad hearing examiner following a protest in which the Brotherhood of Railroad Signalmen participated.

The derails are located on all main line tracks and were installed to protect movements over bridges which are normally lined for railroad traffic except when it is open for the passage of river traffic.

Traffic through the area averages 13 passenger trains, 7 freight trains and 6 switching movements in each direction daily. The maximum authorized speed is 70 miles per hour for freight trains.

Bridge openings on typical summer days were as high as 23 times and even in winter months some bridges are opened 11 times a day.

In its protest the Signalmen pointed to the volume of traffic and the fact that derails provide protection against trains going through the open bridge.

Signalmen know this is the last and only real safety protection offered at drawbridges. In their applications the Penn Central implied bridge locks are sufficient protection. It is statements such as these that prove how uninterested the railroads are in safety.

In his findings, Hearing Examiner Robert R. Boyd said that "main line derails protecting rail-over-water movements are in a distinctly different category from derails protecting rail-over-rail movements." The derails considered here could prevent, or at least minimize, the results of a runaway movement in violation of signal aspects, toward the open span into the water.

It is elementary that a train on the ground would travel slower and move for a lesser distance than would a train still on the tracks.

The Penn Central applications covered the following interlocking locations: Seekonk, Mystic River, Groton, New London, East Lyme, Connecticut River and India Point.

Hearing Examiner Boyd approved the P.C. application granting removal of derails at India Point, a branch line interlocking.

Attorney Donald W. Bennett represented the Signalmen at the hearing.

Who Does The Housework

A MAN IS HANDY TO HAVE around the house, as most any wife will agree, but not all that handy. Not when it comes to helping with the housework.

Citing a special study by Cornell University researchers, the Institute of Life Insurance reports that the average husband contributes about 1.6 hours a day—11 hours a week—to household chores. The time put in is about the same whether or not the wife also works outside the home.

A husband's total work time, including both his regular job and household tasks, averages 51 hours a week. A wife without an outside job averages 51 hours a week on household chores. If she also works at a job at least part-time, her total work time can run as high as 70 hours a week.

NOTICE

How to Write to Washington

Railroad employes have a vital stake in legislation which has been introduced in the Senate and will be brought before Congress in 1971. Members of our Brotherhood can serve their own best interest as well as those of the industry by asking their Congressmen and Senators to support early enactment of this legislation. Here are some tips on how to write to Washington:
Use the correct form of address.

The Honorable John Doe
United States Senate
Senate Office Building
Washington, D.C. 20510

The Honorable John Doe
U.S. House of Representatives
Washington, D.C. 20515

Write legibly or type your letters. Know your subject and identify the bills you are writing about by name.

Express your thoughts and conclusions in your own words. Be brief and to the point.

State your reasons for writing. Tell your representatives how the issues will affect you, your family, the industry and the nation's economy.

Do not use phrases and sentences from form letters. They will be recognized as "pressure mail" and make little impact.

Be polite and reasonable. Don't gripe or demand. Complaining detracts from your point.

After you have told them where you stand, ask them to state their position in reply.

The timing of such letters is important—It is not unusual for a Congressman or Senator, explaining why he voted as he did on an important issue, to acknowledge he would have acted differently had he heard from his constituents before the roll call in the House or Senate.

National Railroad Adjustment Board

Third Division Award No. 18262
Docket No. S.G. - 18478

David Dolnick, Referee
Parties to Dispute:
Brotherhood of Railroad Signalmen
Penn Central Transportation Co.

Statement of Claim:

Claim of the General Committee of the Brotherhood of Railroad Signalmen on the Penn Central Company (Former Pennsylvania Railroad Company) that:

(a) Carrier compensate H. B. Coward at the Foreman's rate of pay; one and one-half the pro rata rate for the days of August 21 and August 22, 1967, for work performed on days that should have been assigned as vacation days under the provisions of the Vacation Agreement of December 17, 1941, as amended.

(b) Carrier violated Article V, Section 1 (a), of the August 21, 1954 National Agreement, when on September 5, 1967, Supervisor C. & S. R. C. Ryberg denied the claim and in his letter addressed to Inspector C. & S. H. B. Coward failed to give a reason for such disallowance. [Carrier's File: System Docket 620-Pittsburgh Division-Case No. 189]

Opinion of Board:

In a letter dated January 12, 1967 Claimant erroneously requested twenty (20) days of vacation to be taken June 19 through June 23 and August 9 through August 29. It is agreed that this was an error and that Claimant was entitled only to fifteen (15) days of vacation. June 19 was a Monday and August 9 was a Wednesday. In other words Claimant asked that the first five (5) days of his vacation commence on a Monday and the last ten (10) days to commence on a Wednesday.

Carrier states that after receiving vacation requests from all of the employes in the C. & S. Department in Claimant's seniority district, "the Supervisor C. & S., in cooperation with the Local Chairman, prepared a vacation schedule for all the employes which was approved by the Local Chairman." (Emphasis added). And the schedule was properly posted on appropriate bulletin boards. Claimant was granted five (5) days of vacation from June 19 through June 23 as requested, but he was scheduled to take his additional ten (10) days of vacation from August 7 through August 18 instead of August 9 through August 22 as requested.

The Local Chairman wrote a letter dated July 3, 1967 and requested a meeting which was held on July 7, 1967. In a letter dated August 16, 1967 the Superintendent wrote to the Local Chairman, in part, as follows:

> "H. B. Coward was scheduled in accordance with his preference and according to past practice that all vacations must start on Monday, or the first working day following the relief days. We cannot start his vacation in the middle of the week as requested by Mr. Coward."

After further processing, a conference was held on August 20, 1968 and on October 2, 1968 Carrier again denied the claim and wrote, in part as follows:

> "The claimant requested a vacation period starting August 9, 1967 and ending on August 22, 1967. His request was not granted as it has been the practice and the policy for all employes at this location to start their vacation on Monday or on the first day of their work week. This is a reasonable requirement and is best suited to efficiently meet the Company's operational requirements. Third Division Awards 8509, 9038 and 9635 support the position of the Carrier as outlined above. It must be further noted that the making of the vacation schedule has been a cooperative venture and that no other complaints have been received from other employes incident to this established practice."

Claimant took his vacation as scheduled and worked on August 21 and 22, 1967. His claim now is for one and one-half times the pro-rata rate for the hours he worked on those days, which, the Petitioner contends were his requested vacation days improperly denied.

It is firmly established by awards of this Board that the unilateral issuance of vacation schedules constitutes a violation of Article 4 (a) of the Vacation Agreement. In Award 9558 we said:

> "We hold that however well-intentioned or fair or non-discriminatory a unilateral determination of vacation assignment policy may be . . . it is no substitute for cooperation, consultation and joint assignment required by Article 4 (a)." (Also see Award 12114)

And in Award 10377 we held that uniform treatment of all employes "does not relieve the Carrier of its obligation to comply with Article 4 (a)." Regularity alone in scheduling vacations to start on "Monday or on the first day of [the] work week" is not a substitute for the specific obligations in Article 4 (a). It is not a question of whether such a uniform scheduling "is a reasonable requirement and is best suited to efficiently meet the Company's operational requirements." It is rather necessary to determine whether Claimant's vacation request would have impaired the "requirements of service" as provided in said Article 4 (a) and also whether Petitioner cooperated and agreed to the vacation assignment as posted.

There is no convincing proof in the record that Claimant's requested ten days of vacation would have in any way impaired Carrier's service requirements. There is also no probative evidence in the record of a consistent established past practice that all vacations are to start on Monday or on the first day of the employe's work day. What appears in Carrier's Submission is a mere assertion and not evidence of specific facts.

Carrier argues that because Petitioner does not categorically deny the joint action of assigning the vacation period to the Claimant, proof of such joint action and cooperation is not necessary.

The first time that the Carrier raised the issue of Petitioner cooperation and agreement to the vacation schedule was in a letter dated October 2, 1968 from Carrier's highest appeal officer. That reference reads:

> "It must be further noted that the making of the

vacation schedule has been a cooperative venture and that no other complaints have been received from other employes incident to this established practice."

Whether Carrier received complaints from other employes is immaterial. The issue is whether Carrier's local officials and the local chairman had an understanding or an agreement on the vacation schedule as posted.

If the local chairman had such an agreement, why would he have written a letter dated July 3, 1967—four days before Claimant was scheduled to start his vacation? And why did not the Superintendent allege such an understanding and agreement when he denied the vacation violation on August 16, 1967. No local Carrier official ever presented this as a reason for denying the claim. Nor is this fact mentioned in Carrier's position in the Joint Submission dated July 3, 1968. As previously noted, the first Carrier implication of this fact was in Carrier's letter of October 2, 1968. Petitioner's Rebuttal Submission sufficiently denies Carrier's general allegation.

Claimant was paid for fifteen (15) days of vacation. He worked on August 21 and 22 and he was paid straight time for all such hours. He is entitled only to compensation of additonal half time at the pro-rata rate for the hours he worked on those days.

Article V of the August 21, 1954 Agreement does not prescribe the language which must be used in communications denying claims. Carrier's letter of September 5, 1967 denying the claim refers to the meeting of the parties on July 7, 1967 wherein Carrier's position was made known to the Petitioner. Further, the Local Chairman's letter to the Superintendent on September 12, 1967 did not claim that the September 5, 1967 denial was defective. Nor is such a claim made in Petitioner's Position in the Joint Submission. For all of these reasons item (b) of the claim has no merit.

Findings:

The Third Division of the Adjustment Board, upon the whole record and all the evidence, finds and holds:

That the parties waived oral hearing;

That the Carrier and the Employes involved in this dispute are respectively Carrier and Employes within the meaning of the Railway Labor Act, as approved June 21, 1934;

That this Division of the Adjustment Board has jurisdiction over the dispute involved herein; and

That the Carrier violated the Agreement for the item of Claim (a) and did not so violate the Agreement in the item of Claim (b).

Award:

Claim (a) is sustained in accordance with the Opinion.

Claim (b) is denied.

National Railroad Adjustment Board
By Order of Third Division

Attest:
S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 13th day of November 1970.

* * *

Third Division Award No. 18267
Docket No. S.G. - 18399

Paul C. Dugan, Referee
Parties to Dispute:

Brotherhood of Railroad Signalmen
Soo Line Railroad Company

Statement of Claim:

Claim of the General Committee of the Brotherhood of Railroad Signalmen on the Soo Line Railroad Company:

On behalf of Mr. R. J. Heinle, Signal Maintainer at Chippewa Falls, Wisconsin, and all other Signal Maintainers—members of and represented by Local No. 6, Brotherhood of Railroad Signalmen—for noon meal expenses incurred by them during March 1968, or subsequently thereafter, in any future month until the claim is resolved.

[Carrier's File: 900-19-62]

Opinion of Board:

On March 26, 1968, Carrier issued instructions to all Signal Inspectors, Signal Maintainers and Signal Foremen in regard to the basis for submission of future payrolls and expense accounts, the pertinent part thereof providing as follows:

"B. For employees (other than those referred to in Section A) who are required in the course of their employment to be away from their headquarters point as designated by the Carrier, including employees filling relief assignments or performing extra or temporary service.

"1. When such employes are unable to return to their headquarters point on any day, they shall be reimbursed for the actual reasonable cost of meals and lodging away from their headquarters point. HOURLY RATED EMPLOYEES WHO LEAVE AND RETURN TO THEIR HOME STATION ON THE SAME DAY, WILL NOT BE REIMBURSED FOR NOON LUNCH EXPENSE." (Emphasis ours)

Thereafter, the Organization filed this claim for noon meal expenses on the basis that the past practice has been for more than 25 years to pay noon lunch expenses if an employee was working away from his headquarters at noon and ate his noon meal away from his headquarters, and in support thereof submitted statements from 17 Signalmen alleging that they have always been paid for noon meal expenses whenever away from their assigned headquarters.

Carrier's position is that Rule 24 of the Agreement is not applicable herein (the Organization on the property later agreed); that when the Signal Maintainers were changed from monthly rated employees to hourly rated employees on August 1, 1958, they then became subject to among other Rules, Rule 23, which governs this dispute, and said Rule 23 makes no allowance for noon meal expenses; that if Claimants have continued to receive payment for noon meals even though returning to home station daily, then this resulted from oversight and at best can be considered a gratuity, which Carrier can discontinue at any time; that the practice relied on here is not of such long duration or widespread application so as to ripen into an agreement.

First, in the oral panel discussion of this claim before this Board, Carrier Member of the Board raised a procedural defect in contending that the claim should be dismissed because of failure of the Statement of Claim to allege violation of any rule or rules of the Agreement. However, this contention was not raised on the property and cannot now be considered herein.

If this claim is to be sustained, it must be on the basis of past practice.

Carrier argued on the property that "the only 'practice' that would have any relevancy would be the nine

years that the Signal Maintainers have been hourly rated employees, and this period of time is much shorter than the periods involved in those cases where the National Railroad Adjustment Board has given weight to past practice."

Carrier thus admits to the "past practice" of paying noon meal expenses to employees away from their headquarters although returning later to their headquarters on the same day. Carrier further argues that this was an oversight ripening into a gratuity, which can be discontinued by Carrier at any time. With this contention, we do not agree. A "past practice" of some 9 to 10 years' duration, in our opinion, indicates that the parties amended the provisions of the Agreement by mutual action or consent. Evidence of past practice can be introduced to show such an amendment. Here the parties, by custom and practice, intended that "noon meal expenses" be paid to employees away from their headquarters although returning later on the same day. Thus, we are compelled to sustain the claim.

Findings:

The Third Division of the Adjustment Board, upon the whole record and all the evidence, finds and holds:

That the parties waived oral hearing;

That the Carrier and the Employes involved in this dispute are respectively Carrier and Employes within the meaning of the Railway Labor Act, as approved June 21, 1934;

That this Division of the Adjustment Board has jurisdiction over the dispute involved herein; and

That the Agreement was violated.

Award:

Claim sustained.

National Railroad Adjustment Board
By Order of Third Division

Attest:
S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 13th day of November 1970.

* * *

Third Division Award No. 18283
Docket No. S.G. - 18566

Arthur W. Devine, Referee
Parties to Dispute:

Brotherhood of Railroad Signalmen
Penn Central Transportation Company

Statement of Claim:

Claim of the General Committee of the Brotherhood of Railroad Signalmen on the Penn Central Company (former Pennsylvania Railroad Company) that:

The Company has permitted the headquarters at Redbank, Pa., to be used by C. & S. employes knowing the Headquarters is in violation of the Section 10 Article 8 of the current Agreement. The Company when notified of these conditions and requested to correct them, has chosen to ignore the request and failed to reply to letter of April 28, 1967 by Local Chairman of Local 112 C.

The Company compensate Maintainer J. K. Barnett (Headquarters at Redbank, Penna.) at the rate of 2.7 hours at one and one-half the pro-rata rate of the position worked for each of sixty days preceding the date of first claim (July 19, 1967) and continue to Pay J. K. Barnett 2.7 hours at one and one-half the pro-rata rate for as long as he assumes the responsibility of providing his own water and sanitary facilities or until the following conditions are corrected:

1. Drinking water and water suitable for domestic use furnished.
2. Toilet facilities provided.

(Carrier's File: System Docket 640—Central Region Pittsburgh Division Case 180)

Opinion of Board:

From a review of the record it is clear that while Claimant was headquartered at Redbank, Pa., the Carrier was in violation of Article 8, Section 10 of the Agreement which reads:

> "Headquarters shall be provided for all employes and shall be kept in good and sanitary condition. They shall be properly heated and lighted and sufficient air space provided. Drinking water and water suitable for domestic use shall be furnished. They shall be adequately furnished with chairs, desks and lockers, and toilets shall be accessible."

While we find a violation of the Agreement, the Agreement does not provide a penalty, and damages have not been proved. Therefore, the compensatory portion of the claim will be denied.

Findings:

The Third Division of the Adjustment Board, upon the whole record and all the evidence, finds and holds:

That the parties waived oral hearing;

That the Carrier and the Employes involved in this dispute are respectively Carrier and Employes within the meaning of the Railway Labor Act, as approved June 21, 1934;

That this Division of the Adjustment Board has jurisdiction over the dispute involved herein; and

That the Agreement was violated to the extent shown in Opinion.

Award:

Claim sustained to extent indicated in Opinion and Findings.

National Railroad Adjustment Board
By Order of Third Division

Attest:
S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 20th day of November 1970.

* * *

Third Division Award No. 18303
Docket No. S.G. - 18757

Melvin L. Rosenbloom, Referee
Parties to Dispute:

Brotherhood of Railroad Signalmen
The Chesapeake and Ohio Railway Company
(Chesapeake District)

Statement of Claim:

Claim of the System Committee of the Brotherhood of Railroad Signalmen on the Chesapeake and Ohio Railway Company (Chesapeake District) that:

(a) The Carrier violated the current Signalmen's Agreement, in particular Rule 53 (c) and Rule 24, when it declined to compensate Signal Foreman R. H. Honaker, at his applicable overtime rate of pay, in addition to his monthly rate of pay which he received, for work performed on Saturday, January 25, 1969.

(b) The Claimant, Signal Foreman R. H. Honaker, is regularly assigned to position of Signal Foreman on the Huntington Division, Headquarters Camp Cars, assigned hours 7 a.m. to 4:00 p.m. one (1) hour lunch period, rest day (regular) Sunday. In accordance with Rule 53 (c), Foremen will not be required to work on the sixth day of the work week or on holidays except in case of emergency.

(c) The Carrier now be required to compensate Signal Foreman R. H. Honaker, at his applicable overtime rate of pay for thirteen and one-half hours, in addition to his monthly rate of pay which he received account of the violation cited in part (a) of claim. (Carrier's File: 1-SG-274)

Opinion of Board:

Claimant is a Signal Foreman regularly assigned Monday through Friday, rest day Sunday. The pertinent contract provision relating to his method of payment states:

> "The monthly rate for gang foremen . . . covers all service performed, except that . . . (2) Foremen will not be required to work on the sixth day of the work week or on holidays unless in case of emergency . . ."

The parties agree that if a foreman is required to work on the sixth day of his work week when no emergency exists he should be paid, in addition to his monthly rate, time and one-half for all hours worked on the sixth day. The issue presented herein is whether Claimant should receive compensation in addition to his monthly rate for hours he worked on Saturday, January 25, 1969 (the sixth day of his work week).

At approximately 4:00 A.M. on Thursday, January 23, 1969, a car in one of the Carrier's trains derailed at Huntington, West Virginia, and wiped out eight switches at interlocking facilities west of the Huntington yard and terminal area. The derailment blocked both main line and switching operations, but service was restored that same day by making temporary repairs to all but the crossover switches. The inability to use the crossover switches occasioned some delay and inconvenience to yard operations and movements of coal through the area, but all movements were accomplished by by-passing these switches and using the crossover switches at the opposite end of the yard. The Carrier's Trainmaster stated that five movements were delayed as a result of main line crews having to set Huntington cars off or hold them out by reason of congestion in the yard. On January 23rd, three delays of 30 minutes, 40 minutes and 4 hours and 35 minutes were incurred, and on January 24th, two delays of 45 minutes each occurred. The record does not indicate that any delays in switching movements occurred thereafter.

Claimant was instructed at 1:10 P.M. on January 23rd to take a truck and his gang to a Reclamation Plant located nine miles from the site of the derailment to pick up materials needed for the repair work and then to proceed to the scene of the derailment. When Claimant and his gang arrived at site the temporary repairs had already been accomplished and the main line tracks were open. Claimant's gang worked only their regular hours that day. The Carrier contending that the reason that Claimant's gang was not put to work on the repair immediately was that ". . . a substantial and essential part of . . ." the material needed for the repair was not then on the site. Claimant states that "most of the necessary material needed to restore HO Cabin to normal operation was brought by my force from Barboursville Reclamation Plant on Thursday, January 23, 1969, except some pipe fittings which could be purchased at any local hardware in Huntington, W. Va." In any event, the material which was not on the site when Claimant arrived was ultimately obtained from company sources in the Huntington area.

Claimant was told to have his gang report for work on the derailment site at their regular starting time Friday, January 24th, and they worked until 6:30 P.M., or two and one-half hours overtime, on that day. This gang was also assigned to this work on Saturday, January 25th, on which they worked thirteen and one-half hours. This gang did not work on Sunday, January 26th, but two maintainers and two travelling mechanics did work on wiring that day and all damaged equipment was restored by 4:00 P.M. Sunday. Claimant and his gang again worked on the site on Monday, January 27th, to complete final cleanup operations.

The carrier maintains that an emergency existed as a result of the derailment and persisted until 4:00 P.M. Sunday, January 26th, when all the damaged switches were repaired. The position of the Carrier is that so long as substitute procedures had to be effected to compensate for the loss of the inoperable crossover switches an emergency prevailed. The Brotherhood asserts that no emergency existed after the temporary repairs opening the main line were accomplished on January 23rd, since thereafter no train or switching movement was prevented from reaching its intended destination and only minor delay and inconvenience was experienced.

We hold that an emergency situation did not exist on Saturday, January 25th. We make this finding not only because the Carrier was able to operate all its trains at near normal scheduling and was able to continue to serve all its customers, but also in consideration of the manner in which the situation was handled by the Carrier. After the temporary repairs which opened the main line were accomplished, the Carrier obviously did not treat the condition as one which required immediate and urgent attention. It apparently was not considered important enough to expedite delivery of materials to the site so that Claimant's gang could be put to work on Thursday, nearly 12 hours after the derailment occurred, notwithstanding the fact that all materials were available in Huntington. Additionally, no attempt was made to enlist other crews for this work even though Huntington is a major repair station for the Carrier and the Reclamation Plant is located nearby and presumably the manpower was available. These actions could be expected to have been undertaken by the Carrier if it deemed the condition one of true urgency and necessity.

The contract clearly indicates that the parties intended that Claimant would not be required to work on his sixth day unless the Carrier was faced with a pressing and compelling situation which left it no other choice. We do not believe that the Carrier's actions after the temporary repairs were made leave the impression that it considered the state of affairs that serious. The Carrier is not permitted to declare an unexpected and unwanted occurrence an emergency and then proceed at its convenience to end the emergency, suspending in the meanwhile an important contract benefit.

Findings:

The Third Division of the Adjustment Board, upon the whole record and all the evidence, finds and holds:

That the parties waived oral hearing;

That the Carrier and the Employes involved in this dispute are respectively Carrier and Employes within

the meaning of the Railway Labor Act, as approved June 21, 1934;

That this Division of the Adjustment Board has jurisdiction over the dispute involved herein; and

That the Agreement was violated.

Award:

The Claim is sustained.

National Railroad Adjustment Board
By Order of Third Division

Attest:
S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 25th day of November 1970.

* * *

Third Division Award No. 18351
Docket No. S.G. - 18484

David Dolnick, Referee

Parties to Dispute:

Brotherhood of Railroad Signalmen
Atlanta and West Point Rail Road Company
The Western Railway of Alabama

Statement of Claim:

Claim of the General Committee of the Brotherhood of Railroad Signalmen on the Atlanta and West Point Rail Road Company—The Western Railway of Alabama that:

(a) Mr. Troy Collins be permitted to return at some early date to his permanent assignment in the signal gang.

(b) Mr. Troy Collins be paid the straight-time rate of his regular assigned permanent position in the signal gang which he is not permitted to work, in addition to any time paid for while working the arbitrary assignment of signal maintainer, Madison, Ga.

(c) Mr. Troy Collins be reimbursed for all expenses incurred, and he be paid for three (3) meals each day, five (5) days each week while working the arbitrary assignment of signal maintainer, Madison, Ga.

(d) Part b and c of this claim be paid beginning Monday, December 11, 1967, and continuing thereafter until Mr. Collins is permitted to return to his permanent assignment in the signal gang, or until a correction is made.

Opinion of Board:

The basic facts are not in dispute. Claimant held a regularly assigned position as Signalman in a gang under the supervision of Foreman R. L. Bateman. On November 22, 1967 the Carrier advertised for bids by Bulletin No. 179, the temporary position of Signal Maintainer in Section No. 2 with headquarters at Madison, Georgia. This was occasioned because of the illness of the incumbent. No bids were received. By Bulletin No. 179A, dated December 6, 1967, Carrier assigned Claimant to that position on the theory that: "As no qualified bids were received on this bulletin, senior man was assigned." Claimant subsequently bid for and was assigned to the maintainer position on May 19, 1969.

A difference in seniority interpretation exists. Petitioner says that the Claimant "is not the senior man in the Signalman-Signal Maintainer Class. The Carrier replies that the Claimant "is the senior man in the Signal-Signal Maintainer Class, not holding signal maintainer position, this being the higher rate of pay in Signalman-Signal Maintainer Class."

Petitioner contends that the involuntary assignment of the Claimant to Signal Maintainer position was in violation of the Agreement, particularly Rules 41, 47 and 56. The "purpose and intent of almost every rule in the Agreement," says the Petitioner, "prevents the Carrier from removing a gang signalman from his position and arbitrarily placing him on a Signal Maintainers position because no one has bid on the maintainer positioner."

Carrier argues: "There is nothing contained in the current schedule agreement which restricts carrier from making assignments as was done in this particular case and certainly nothing to the effect that when same is done that an additional day at straight time rate be paid for all such days claimant works the position assigned to him by carrier."

There is no rule in the agreement which gives the Carrier the right to compel an employe to accept a position advertised for bids. Rule 53 implies that an employe may decline a promotion. The mere fact, therefore, that no bids were received to Bulletin No. 179, and that Claimant had been the senior employe in the lower rated position in his classification, does not give Carrier the right to assign him to the temporary position he did not seek and desire. The undesired position could have been filled by abolishing a position which would open the bumping procedures resulting in the filling of all required positions. There are rules in the agreement which the Carrier could have invoked to have that position filled. Rule 41 does not permit Carrier to assign an employe to a higher rated position where there is no force reduction or abolished position.

Notwithstanding the violation of the agreement, Carrier also contends that the Claim should be denied because there is no rule which justifies recovery of another day's pay for each day the Claimant occupied the position. At most, he may recover only actual expenses incurred by him.

It is difficult to reconcile a contract violation without an appropriate and adequate remedy. A first thought is to sustain the claim for another day's pay for each day of violation as a penalty to discourage frequent and deliberate violations. But assessing penalties must be done with caution so as not to contravene any of the contract rules.

Rule 28 provides for actual expenses to employes away from their home stations. This implies that employes may be transferred from their assigned gangs. In Award 16278 we found that there was "nothing in the parties' agreement which supports the Brotherhood's claim that all members of the gang must always be together. Indeed, the parties obviously contemplate that some members of the gang will be separated by providing in Rule 23 that those away from headquarters will be reimbursed for their actual expenses if they are unable to return the same day." In Award 16931, we said, "Under Rules 22 and 23 of the Agreement, a Signalman may be used away from his Gang or Crew providing he is paid for travel time and expenses." Also see Awards 18291, 17143, 16463, 16092 and others.

The remaining question is whether Claimant incurred actual expenses. Petitioner's submission fails to show the nature or the amount of "actual expenses." Carrier is entitled to know what reasonable and warranted expenses reflect "actual expenses" incurred under Rule 28. Petitioner, therefore, shall submit a statement itemizing such "actual expenses" for each day Claimant involuntarily occupied the position. For this purpose, the Board adopts the definition of "actual expense" as contained in Award 10923.

Claim (a) is moot.

Findings:

The Third Division of the Adjustment Board, upon the whole record and all the evidence, finds and holds:

That the parties waived oral hearing;

That the Carrier and the Employes involved in this dispute are respectively Carrier and Employes within the meaning of the Railway Labor Act, as approved June 21, 1934;

That this Division of the Adjustment Board has jurisdiction over the dispute involved herein; and

That the Carrier did not violate the Agreement with respect to claim (b).

Award:

Claim (a) is dismissed.

Claim (b) is denied.

Claims (c) and (d) are remanded to the property to be adjusted between the parties in accordance with the Opinion, limited to May 19, 1969.

National Railroad Adjustment Board
By Order of Third Division

Attest:
S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 31st day of December 1970.

* * *

Third Division Award No. 18352
Docket No. S.G. - 18567

John H. Dorsey, Referee

Parties to Dispute:

Brotherhood of Railroad Signalmen
Penn Central Transportation Company
Northeastern Region, Springfield Division

Statement of Claim:

Claim of the General Committee of the Brotherhood of Railroad Signalmen on the Boston and Albany Railroad (New York Central Railroad Co., Lessee):

(a) Carrier violated the current Signalmen's Agreement, as amended, when it failed to comply with the time limit provisions of Rule 36 in connection with the twenty (20) day actual suspension assessed Signal Maintainer E. P. Bennett June 21, to July 19, 1968 inclusive, for an alleged violation of carrier rules on June 20, 1968.

(b) Carrier violated the time limit provisions of Article V of the August 21, 1954 Agreement when it failed to properly respond to the General Chairman's appeal of October 5, 1968.

(c) Carrier now be required to dismiss the charges against Mr. Bennett, pay him for time lost, and clear his record of this discipline.

Opinion of Board:

The issue presented is interpretation and application of time limitations agreed to by the parties and memorialized in Rule 36—Discipline and Grievances.

At the outset we deem it prudent to collect and show, as premise of our adjudication, the source and limitations of the Board's jurisdiction:

1. The Board's jurisdiction is by statute confined to the interpretation and application of the Agreement in being. Section 3, First (i) *et seq* of the Railway Labor Act (RLA);
2. The Board is without jurisdiction to add to, subtract from, or otherwise vary the terms of the Agreement. It has no jurisdiction to set aside the expressed terms of the Agreement and substitute its sense of justice—fairness or hardship—in the place and stead of what the parties have agreed to. See Award No. 6446. The award must find its essence in the Agreement. *Steelworkers v. Enterprise Wheel and Car Corp.*, 363 U.S. 593 at p. 597;
3. The Agreement "covers the whole employment relationship. It calls into being a new common law—the common law" of the particular property. *T.C.E.U.* v. *Union Pacific R. Co.*, 385 U.S. 157. The Agreement is a codification of the supreme law of the property governing wages, hours and conditions of employment in the relationship between Carrier and the employes in the collective bargaining unit. While provisions of an Agreement expressing intent of the parties in general terms may be construed as viable to effectuate the intent of the parties such latitude does not attach to fixed provisions as, for example, wages, hours of employment and time limitations;
4. Parties, legally qualified, are free to enter into Agreements (contracts) which are legally enforcible unless they require an unlawful act or are contrary to public policy;
5. A party to a legally enforcible Agreement may be freed from compliance with its terms only with consent, expressed in agreement, of the other party; or, by overriding law;
6. In discipline cases the Board sits as an appellate forum to determine whether in the proceedings on the property: (a) the employe was afforded due process; (b) substantial evidence was adduced to support the Carrier's finding of the employe's guilt as charged in whole or in part; and, (c) the assessed discipline was reasonable and neither arbitrary nor capricious;
7. The phrase "due process of law" in the Constitution is a conceptualism. The authorities agree that it has never been defined. In adjudication it is interpreted and applied by constitutional and statutory courts of law in the factual circumstances of a case. The guarantees of the Fifth and Sixth Amendments vests only in criminal proceedings and prosecutions; and, the Fourteenth Amendment, Section 1, inhibits the powers of the States. A Federal statutory quasi-judicial body, such as this Board, adjudicating civil matters, has no occasion to be concerned with the applicability or enforcement of the constitutional rights which are the substance of those Amendments;
8. The phrase "due process" as employed by this Board pertains to procedures with which the parties have agreed to comply in their dealings. The principles of contract law and the law of evidence—particularized relative to collective bargaining agreements and admissibility, materiality, relevancy and weight of evidence in quasi-judicial proceedings—provide the framework of adjudication.

The reasons for the parties agreeing to time limitations in discipline proceedings are a matter of general knowledge in the industry. Consequently, no purpose would be served by detailing them herein. The intent of the parties in this dispute is self-evident by a reading of the following provisions of the Agreement in which we have supplied the emphasis:

Rule 36

Discipline and Grievances.

(a) An employee who has been in the service more

than 30 days shall not be disciplined or dismissed without a fair and impartial hearing by designated officers of the carrier. Suspension in proper cases pending *a hearing, which shall be prompt,* shall not be deemed a violation of this section. *At least 48 hours prior to the hearing,* such employee shall be appraised of the precise nature of the occurrence or irregularities to be investigated and be given a reasonable opportunity to secure the presence of necessary witnesses to testify in his behalf. He or his representatives shall have the right to cross-examine witnesses who are used in support of the charges.

Such *investigation shall be held within 10 days* of the date when charged with the offense. A *decision shall be rendered within 10 days* after the completion of investigation.

(b) An employee dissatisfied with a decision shall have a fair and impartial hearing before the next higher officer *provided written request is made* to such officer and a copy furnished to the officer whose decision is appealed, *within 10 days* of the date of the advice of the decision. Hearing *shall be granted within 10 days* thereafter and *a decision rendered within 10 days* of the completion of the hearing.

(c) *If further appeal is taken* it shall *be filed within 20 days* of the date of the decision appealed from. On *such appeals hearings shall be given and decision rendered as promptly as practicable.*

(d) *The right of appeal* by employees or duly accredited representative of Brotherhood of Railroad Signalmen of America in regular order of succession and *in the manner prescribed* up to and inclusive of the highest official designated by the railroad to whom appeals may be made, *is hereby established.*

* * *

(g) *If a charge against the employee is not sustained it shall be stricken from the record. . .*

* * *

(i) No case involving alleged violations of this Agreement shall be considered *after the expiration of 60 days* from day such alleged violation occurred.

While the record raises some questions concerning compliance with Rule 36 (a) we can resolve the case by confining the issue of compliance to Petitioner's allegation that Carrier violated Rule 36 (b) and the prayer of the Claim that the discipline assessed and imposed be set aside. The following chronological list of events is sufficient to show the facts which gave rise to the dispute:

June 20, 1968: Date of the occurrence involved in the charge;

June 24, 1968: Charge and Notice of Hearing served on Claimant;

July 9, 1968: Hearing held;

July 19, 1968: Carrier issued its finding of Claimant's guilt as charged and imposed discipline of 20 days suspension from service;

July 19, 1968: Claimant perfected his appeal to the District Signal Engineer in the manner mandated in Rule 36 (b);

July 26, 1968: By letter to Petitioner District Signal Engineer set hearing on the appeal for *August 6, 1968* —more than 10 days after it received the appeal request. For reasons not here material the hearing on the appeal was held subsequent to August 6. Petitioner timely filed motion to dismiss the charge and make whole Claimant on the grounds that Carrier, by its failure to afford Claimant hearing on the appeal within 10 days of the filing of the appeal, violated Rule 36 (b).

Carrier's defenses are: (1) the time limits are directory; not mandatory—Petitioner, to prevail, must show that he was prejudiced by the delay; (2) Nothing in Rule 36 (b) says that the appeal hearing must be *held* within 10 days, only that it must be *"granted"* in that time. The Rule only requires that Carrier *grant* a hearing, i.e., agree to hold one and set a date, which it did within 10 days; and, (3) the Rule does not prescribe a penalty for violation. If the Board finds a violation and sets aside the discipline imposed by Carrier it would in effect penalize Carrier and exercise a power not within the Board's jurisdiction.

Words in a contract must be given the meaning of their ordinary everyday usage in the absence of a showing that the parties intended otherwise. No such showing is found in this record. The word "grant" generally means "to give." A legal anology is the conveyance of title to realty. A grant of title occurs only at the time of execution of a deed. In the sense of Rule 36, as a whole, we find that paragraph (b) provides that the hearing on appeal shall be held within 10 days of the date when "written request" is made. Compare with Rule 36 (c) in which the parties disclose their recognition of the distinction between a fixed time limitation within which a hearing must be held and one to be held "as promptly as practicable."

Carrier's defense that Rule 36 (b) is directory and not mandatory—in support of which it cites numerous awards of this Board—finds no essence in the Agreement. Were we to honor it we would: (1) exceed our jurisdiction by adding a condition to the Agreement; and, (2) ascribe ineffectuality to the Rule. Had an employe failed to file written request for appeal within 10 days —which is also a time limitation prescription within Rule 36 (b)—we would, for the same reason, reject a petitioner's argument that the Rule was directory and not mandatory and that the Carrier, to prevail, would be required to show that it was prejudiced by a late filing. We have consistently held that an employe who has failed to initiate action within the time limitation fixed in an agreement is barred from initiating an action at a later date. Satisfaction of identified action within fixed agreed upon time limitations is mandatory as to each of the parties. Time limitations set by contractual agreement have the same force and effect as those found in statutes and court rules—a party failing to comply by nonfeasances finds himself hoisted by his own petard.

Carrier's defense that the Board would be exceeding its jurisdiction if it were to set aside the discipline which it had imposed is novel. It having failed to handle the dispute in the usual manner on the property the discipline proceedings became void *ab initio.* In sustaining the Claim we are merely restoring Claimant to the *status quo* he would have enjoyed absent the aborted discipline proceedings. For certainty, in so doing, we do not penalize Carrier.

Findings:

The Third Division of the Adjustment Board, upon the whole record and all the evidence, finds and holds:

That the parties waived oral hearing;

That the Carrier and the Employes involved in this dispute are respectively Carrier and Employes within the meaning of the Railway Labor Act, as approved June 21, 1934;

That this Division of the Adjustment Board has jurisdiction over the dispute involved herein; and

That Carrier violated the Agreement.

Award:
Claim sustained.

National Railroad Adjustment Board
By Order of Third Division

Attest:
S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 31st day of December 1970.

* * *

Third Division Award No. 18357
Docket No. S.G. - 18476

Paul C. Dugan, Referee
Parties to Dispute:
Brotherhood of Railroad Signalmen
Erie-Lackawanna Railway Company

Statement of Claim:
Claim of the General Committee of the Brotherhood of Railroad Signalmen on the Erie Lackawanna Railroad Company that:

(a) Carrier violated the current Signalmen's Agreement, particularly the intention of Rule 7 (d), when it required Foreman of Maintainers W. K. French to work on Saturday, December 23, 1967, assisting to make routine tests of the interlocking and signal system at Terminal Tower in Hoboken, New Jersey.

(b) Carrier should now be required to compensate Mr. French for eight (8) hours at his time and one-half rate of pay because of this violation.

(Carrier's File: 163-Sig.)

Opinion of Board:
On Saturday, December 23, 1967, Claimant was required by Carrier to make certain tests in conjunction with operational tests being made with equipment which had been involved in a derailment occurring on December 15, 1967.

The tests in question were made according to Carrier on Saturday because of the heavy commuter schedule during the week.

Claimant bases his claim on an alleged violation by Carrier of Rule 7 (d) of the Agreement, claiming that inasmuch as ordinary maintenance or construction work is not to be required on the sixth day of the work week, he is entitled to be paid 8 hours at overtime rate performed on said Saturday, December 23, 1967; that under said Rule 7 (d), the privilege of the second off day was extended to monthly rated employes; that unless an emergency existed, Claimant could not properly be used on the date in question without additional payment.

Carrier's position herein is that the use of Claimant on the date in question, which was a work day of his work week for which he is compensated in his monthly rate, was proper and no additional compensation is due; that the Organization failed to prove that Claimant did ordinary maintenance or construction work; that the conditions requiring Claimant's services were not ordinary but extraordinary; that the work Claimant was called on to perform was on the sixth day which was a work day of his work week and not a rest day.

Rule 7 (d) provides as follows:

"(d) Where employes now have a bulletined or assigned rest day, conditions now applicable to such bulletined or assigned rest days shall hereafter apply to the sixth day of the work week. Where employes do not now have a bulletined or assigned rest day, ordinary maintenance or construction work not heretofore required on Sunday will not be required on the sixth day of the work week."

It is undisputed that Claimant had Sunday as an assigned rest day. Therefore, the 1st part of Rule 7 (d) comes into play, namely: "Where employes now have a bulletined or assigned rest day, conditions now applicable to such bulletined or assigned rest days shall hereafter apply to the sixth day of the work week. . . ." Thus, in effect the sixth day of Claimant's work week, Saturday in this instance, became a rest day for Claimant. Since he worked on said day, under the provisions of Rule 7 (a) of the Agreement, he is entitled to additional payment for overtime on said rest day.

Carrier points out that Claimant only worked 4 hours on said date and Claimant is claiming 8 hours overtime for work on said date. No evidence was presented in the record showing the actual time Claimant worked on the claim date. Claimant is entitled to overtime pay for only the time he actually worked on said date and thus we will remand the claim to the property so that the parties can ascertain the amount of time actually worked by Claimant on the date in question, to which Claimant is entitled to be paid for at the punitive rate.

Carrier relied on this Board's Award No. 17993, involving the same parties herein and the application of said Rule 7(d). The Board therein applied the second part of Rule 7 (d) concerning employes who do not have an assigned rest day. Inasmuch as in the instant dispute we are not dealing with an employe not having an assigned rest day, we find said Award not controlling in this dispute.

Therefore, for the aforesaid reason, we will sustain this claim to the extent set forth aforesaid.

Findings:
The Third Division of the Adjustment Board, upon the whole record and all the evidence, finds and holds:

That the parties waived oral hearing;

That the Carrier and the Employes involved in this dispute are respectively Carrier and Employes within the meaning of the Railway Labor Act, as approved June 21, 1934;

That this Division of the Adjustment Board has jurisdiction over the dispute involved herein; and

That the Agreement was violated in accordance with the Opinion and Findings.

Award:
Claim sustained to the extent set forth in the Opinion.

National Railroad Adjustment Board
By Order of Third Division

Attest:
S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 31st day of December 1970.

* * *

Third Division Award No. 18372
Docket No. S.G. - 18432

John H. Dorsey, Referee
Parties to Dispute:
Brotherhood of Railroad Signalmen
Norfolk and Western Railway Company

Statement of Claim:
Claim of the Virginian General Committee of the

Brotherhood of Railroad Signalmen on the Norfolk and Western Railway Company that:

(a) Carrier violated the current Signalmen's Agreement, as amended, particularly Rules 101-Scope (b) and 314 (f), when on May 18, 1968, it instructed a yard master at Portlock Yard to clear trouble on Power Switch No. 10 at Caroline Junction and on June 7 and 8, 1968, allowed and/or permitted the Supervisor of Bridge and Building to clear trouble on the gates at Thole Street in Norfolk, Virginia.

(b) Carrier now pay Signal Maintainer A. D. Bohon two and seven-tenths (2.7) hours for May 18 and eight (8) hours for June 7 and 8, a total of ten and seven-tenths (10.7) hours at the time and one-half rate of pay, account of the violations cited in paragraph (a) above. (Carrier's File: S-410.)

Opinion of Board:

In the record made on the property Carrier failed to adduce the documents designated as Attachments E, F, J, M, N and O of its Submission. The documents, consequently, are not properly before us. They, therefore, have no evidentiary value in our consideration of the dispute. Circular No. 1.

Our adjudication of the dispute is, confined, by jurisdictional limitation, to the factual record made and issues raised on the property.

The pertinent provisions of the Agreement which we have been petitioned to interpret and apply are:

RULE 101—Scope: (a) This agreement covers rates of pay, hours of service and working conditions of all employes classified in Article 2 of this agreement, either in the shop or in the field, engaged in the work of construction, installation, *inspecting, testing, maintenance and repair of all signals, interlocking plants, highway crossing protection devices and their appurtenances,* wayside cab signal, train stop and train control equipment, car retarder systems, centralized traffic control systems, shop repairing of relays, signals, switch magnets, motors and other equipment of like character, bonding of track for signal and interlocking purposes, and all other work generally recognized as signal work. (Emphasis supplied.)

(b) No employes other than those classified herein will be required or permitted to perform any of the work covered by the Scope of this agreement.

* * *

RULE 314: (f) Employes assigned to or filling vacancies on regular maintenance assignments and paid on an hourly basis will respond to calls when called. Assignee filling position will be called unless registered absent.

Claimant was, at all times material herein, assigned as Signal Maintainer to the signal section or territory involved; and, no issue was raised on the property as to his availability.

On Saturday, May 18, 1968, the Operator at South Norfolk Tower called the Signal and Communications Supervisor and reported that he could not get No. 10 Switch to reverse. The Supervisor told the Operator to call the Yardmaster at Portlock and have him visually inspect the switch to determine whether there were any rocks obstructing the switch points. The Yardmaster upon his arrival at the switch found rocks obstructing the switch points and he removed them. Petitioner, citing the Rules, *supra,* contends that Claimant, under the circumstances, should have been called and paid for a minimum call. Carrier's reasons for denial of the Claim on the property are: (1) the Claim is not supported by the Rules Agreement; and (2) the work of removing rocks from a switch is not exclusively reserved to Signalmen.

On June 7, 1968, a highway crossing protective device (crossing signal with gate) at Thole Street in Norfolk, Virginia, was reported to be malfunctioning—the lights flashed continuously and the gates were down blocking street traffic. Carrier caused the Terminal Supervisor, Bridges and Buildings, to travel to the site to inspect, find the cause, and remedy. On June 8, 1968, the same situation reoccurred and the Terminal Supervisor was again dispatched to the site. Petitioner contends the inspection and necessary repair, on each day, was work exclusively reserved to Signalmen to which Claimant had a contractual right. The defenses proffered by Carrier, on the property, are: (1) the claim was not supported by the Rules Agreement; and (2) "no Signal Maintainer work was done by anyone not covered by the Scope of the Schedule Agreement on the dates of the claim and payment is denied."

We find that: (1) Rule 101 (a) and (b) exclusively reserves to Signalmen the work of "inspecting, testing, maintenance and repair of all signals, interlocking plants, highway crossing devices and their appurtenances;" (2) upon discovery of the malfunctions here involved Carrier was contractually obligated to assign a Signalman to inspect the devices to determine the causes and remedy the defects; and (3) Claimant is a proper Claimant. Cf. Award 13938. We will sustain paragraph (a) of the Claim.

Petitioner did not adduce evidence as to the amount of time actually required on each of the three dates involved to remedy the malfunctions. We, therefore, will sustain paragraph (b) of the Claim only to the extent of compensating Claimant at the rate of pay for a minimum call for each date.

Findings:

The Third Division of the Adjustment Board, upon the whole record and all the evidence, finds and holds:

That the parties waived oral hearing;

That the Carrier and the Employes involved in this dispute are respectively Carrier and Employes within the meaning of the Railway Labor Act, as approved June 21, 1934;

That this Division of the Adjustment Board has jurisdiction over the dispute involved herein; and

That Carrier violated the Agreement.

Award:

Paragraph (a) of the Claim sustained.

Paragraph (b) of the Claim sustained to the extent prescribed in the Opinion, *supra.*

National Railroad Adjustment Board
By Order of Third Division

Attest:
S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 29th day of January, 1971.

* * *

Third Division Award No. 18384
Docket No. S.G. - 18655

Melvin L. Rosenbloom, Referee
Parties to Dispute:
Brotherhood of Railroad Signalmen
Erie-Lackawanna Railway Company

Statement of Claim:

Claim of the General Committee of the Brotherhood of Railroad Signalmen on the Erie Lackawanna Railroad Company that:

(a) The Carrier violated and continues to violate the intent and provisions of the current Signalmen's Agreement, particularly the Scope Rule and memorandum of agreement effective November 1, 1962, when it assigned and/or allowed persons not covered by the Signalmen's Agreement and holding no seniority in this department to apply shunt wires at MP. 296.70 to control signals 296-1 and 296-2 in order to govern the movement of trains and refused this generally recognized signal work to accrue to signalmen.

(b) The Carrier now be required to compensate Mr. W. H. Barnes, presently Maintainer-Helper, Waverly, New York for 8 hours per day at Signal Maintainer's rate and all hours over 8 per day at time and one-half Signal Maintainer's rate worked by persons not covered by the current Signalmen's Agreement, performing Signalman's work on the following dates: May 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 1968; June 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 1968; July 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 1968.

(c) Should this violation persist, continue, or prevail, this will be considered as a continuing claim as provided in Article V of the August 21, 1954 Agreement.

(Carrier's File: 166-Sig.)

Opinion of Board:

On May 20, 1968, Carrier assigned a train service employee to provide protection for the movement of trucks and other heavy equipment of a contractor over the tracks of Carrier at a temporary private crossing. The contractor was engaged in constructing a highway bridge over Carrier's tracks and right of way. The train service employer's responsibility was to regulate the movement of the contractor's vehicles over the tracks in the same manner that a crossing watchman would do where one is employed. Specifically he was to halt vehicular and other traffic over the tracks when a train approached. Thus, the primary means by which protection was to be provided to the contractor's and Carrier's equipment was the regulation of vehicles, not trains.

Such an arrangement, however, would have been inadequate in the event that it became impossible to keep the tracks clear by the regulation of vehicles alone, such as, if a vehicle became stalled on the tracks or if heavy debris obstructed the tracks. Accordingly, it was necessary to provide the assigned employee with a means of regulating the movement of trains if such emergency situations occurred. Hence, the employee was provided with a "shunt" to be used if it became necessary to stop the movement of a train in order to avoid an accident on the section of track where the temporary crossing was located.

A brief and rudimentary description of a "shunt" and its function is appropriate here. The signal system which regulates the movement of trains incorporates track rails as an integral party of its electrical circuitry. Energizing both track rails with current enables the signal system to detect electrically the presence of a train on a particular portion of track. The train, through its wheels and axle, causes a sort of "short circuit" by making a metalic connection between the rails, thereby activating signals which will stop other trains from entering that portion of track. Signals can be activated to give the same indication by use of a "shunt," a metallic cable fitted with screw connections at each end to attach to the rails. Therefore, by attaching the ends of the shunt to the rails, a given portion of track can be protected by causing the signals to indicate that the track is occupied.

In this case, the shunt which was provided the employee assigned to the crossing was, as stated above, to be used in the event that it was necessary to stop trains to protect the crossing. One end of the shunt was attached to one rail and the other end was left unattached, to be attached to the other rail when needed to signal approaching trains. (Claimant contends that the original arrangement called for having the shunt continuously attached, to be removed when scheduled trains were approaching, but the distinction is not material in light of our analysis and findings hereinafter enunciated.) Claimant maintains that Carrier violated the Scope Rule of the Signalmen's contract by assigning the work of applying the shunt to an employee not covered by that agreement. He argues that this Board's prior interpretations of the Signalmen's Scope Rule place the work in question within that contract. Carrier maintains that the Signalmen's Scope Rule does not specifically cover the work involved herein and that the prior decisions of this Board clearly refute Signalmen's claim of exclusivity with respect to the work. Claimant and Carrier have each cited several decisions of this Board in support of their respective positions.

There have been numerous decisions of this Board in the past several years dealing with the application of Signalmen's Scope Rule to the task of controlling signals by shunting the track circuit, and, indeed, these past cases are divided between those which sustain and those which deny prior claims to the work. These cases are not hopelessly split and inconsistent, however. There is a pattern to these cases which delineates distinctly and logically between the circumstances under which the Signalmen's Scope Rule will be held to include the work of applying a shunt to the track circuit and those which will be considered beyond the intended coverage of the rule.

Cases which have held that Signalmen were not entitled to the work of applying a temporary shunt involve situations where the primary instrumentality of effecting the "short circuit" is equipment which operates on the rails. Where maintenance crews operate equipment such as cribbing machines, tamping machines, track liners and the like, the equipment itself actuates the signals in the same manner that a train would do. Shunts are ordinarily used as a back-up in those cases or to provide intermittent protection while the equipment is being repositioned or removed.

Those cases which have held that signalmen were entitled to the work fall in two categories, (1) where the sole activity performed at the site where the shunt was applied and the sole reason for being at the site was the application of the shunt, and (2) where the shunt was used as the sole method of protecting a particular block of track to safeguard other work being done. An example of the first would be where a shunt is applied solely to test the readiness or efficiency of train crews. An example of the second would be where maintenance crews working on the line had no equipment which operated on the rails or had rail equipment not designed to reliably conduct current between the rails.

In our view, the instant case is most closely allied with the line of decisions holding that the work in question is covered by the Signalmen's Scope Rule. Here the

man assigned was the only employee of the Carrier at the site. The only business of the Carrier being conducted at the site was the protection of its equipment and the contractor's equipment crossing its tracks. The sole purpose of assigning an employee was to regulate trains by electrically actuating the appropriate signals when and if needed and the shunt was the sole means of actuating those signals. The fact that the shunt may never have been needed is of no consequence. The same considerations which prompted Carrier to provide a shunt wire even though it may not have been needed should have been sufficient to necessitate the assignment of the proper qualified man to apply the shunt even though his skill may never have been needed or used.

Findings:

The Third Division of the Adjustment Board, upon the whole record and all the evidence, finds and holds:

That the parties waived oral hearing;

That the Carrier and the Employes involved in this dispute are respectively Carrier and Employes within the meaning of the Railway Labor Act, as approved June 21, 1934;

That this Division of the Adjustment Board has jurisdiction over the dispute involved herein; and

Carrier violated the Scope Rule by assigning an employee not covered by Signalmen's Agreement to the work involved.

Award:

Claimant to be paid for difference between amount of compensation he would have earned had he been assigned to disputed job on each day that the job was worked and amount he was paid for such days.

National Railroad Adjustment Board
By Order of Third Division

Attest:
S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 29th day of January, 1971.

College costs facing your family?

Here Are Tips On Obtaining Student Financial Help

AMONG THE MORE IMPORtant of all the "troubles on the campus" is the problem of meeting the astronomical cost of just being there.

Parents who began salting away a few dollars toward college the day Junior was born may find these savings pitifully inadequate. And those who have done no advance planning at all can well prepare to undergo a jolt to the family budget.

Yet there are literally thousands of scholarships, loan funds, gratuities and other educational aids offered by universities, colleges, foundations, private organizations and federal and state legislation. The big problem is where to go—how to find out about the help that is available.

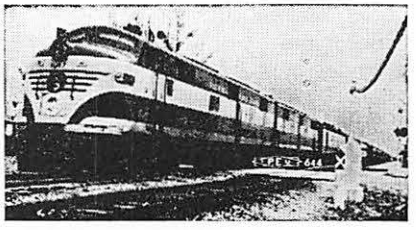
A student aiming toward scholarship assistance should discuss the matter early during his senior year in high school with his guidance counselor. Often a particular teacher or family friend active in the field in which the student is interested can also offer valuable information.

Special Funds Available

The Registrar or Dean of Admissions at any college will gladly supply a list of financial aids available. In addition, students planning to enroll in special "high market demand" fields can frequently qualify for substantial help. For example, a graduate student in urban transportation may qualify for an annual stipend of up to $6,500. Traineeships in rehabilitation of disabled persons cover tuition, fees, travel and living expenses, most hospitals will fund educational costs for male and female students who obtain registered or licensed practical nurse certificates, providing the student returns to work at the sponsoring institution.

Subsidies From Business

Many business and industrial firms will subsidize outstanding students on a cooperative "earn and learn" program whereby the student spends a term in school—a term working at the company. This helps provide educational funds and can lead to employment after graduation.



Two new congressional reports list hundreds of financial-aid sources for both under-graduate and graduate students. Both may be obtained from the Superintendent of Documents, Washington, D.C. 20402. Ask for *Federal and State Student Aid Programs,* prepared for the Senate Committee on Labor and Public Welfare (40¢) and *A Guide to Student Assistance,* prepared for the Committee on Education and Labor of the House of Representatives (60¢).

Still another valuable booklet is published as part of The American Legion's Education and Scholarship Program, Entitled *Need A Lift?,* it is available (50¢ per copy) from The American Legion, Dept. S., P.O. Box 1055, Indianapolis, Indiana 46206.

In most cases, a scholarship will not provide the full expense of higher education. But nearly every school provides a program whereby students may obtain part-time employment or a long-term, low-interest loan to help defray living costs.

YOUR WASHINGTON Reporter

By Richard J. Calistri

AFTER A PRELIMINARY legislative hurdle, railway unions and all of organized labor swung into the next big battle in Congress—over the issue of compulsory arbitration versus the right to strike. The preliminary hurdle was passed on March 1 when the no-strike ban imposed by Congress last December 10 in the wage cases of four rail unions expired.

Now the struggle has begun in earnest over long-range legislation. On one side is the President's proposal for legislative changes to deal with disputes in all forms of transportation.

On the other side are bills sponsored by Rep. Harley Staggers (D., W. Va.), chairman of the House Interstate Commerce Committee, and by Sen. Harrison J. Williams, Jr. (D., N.J.), chairman of the Senate Labor Committee. The Staggers-Williams bills would allow limited, selective strikes on the rails, so as to provide an incentive to real collective bargaining.

As heretofore reported, the Nixon measure, known as the "Emergency Public Interest Protection Act," would virtually erase the Railway Labor Act and blanket all major transport disputes under the Taft-Hartley Act. Such disputes would become subject to the 80 day Taft-Hartley anti-strike injunctions, and the President would be given three major options: To extend such strike bans for another 30 days; to permit a partial strike or lockout, or to set up a compulsory arbitration panel which could select and impose the last offer of either the unions or managements.

The latter provision has drawn the greatest fire — from railway unions and from the entire labor movement as a "Russian roulette" form of compulsory arbitration.

The AFL-CIO Council declared that it saw no justification for shifting rail and airline disputes from the Railway Labor Act to the Taft-Hartley Act, nor for imposing special emergency procedures on the maritime, longshore and trucking industries.

As for Railway Labor Act disputes, the "so-called crises" of recent years which brought congressional intervention "are solely attributable to the fact that carriers have succeeded in blocking through the courts every attempt at a selective or partial strike, thus transforming every impasse into a nationwide strike or lockout," the Council pointed out.

"We believe the soundest solution is to revise the Railway Labor Act to make it clear that unions have the legal right to strike a particular carrier or carriers, and that the railroads have no right to transform these limited disputes into nationwide strikes or lockouts," the Council continued.

"We also favor allowing the government to require limited operations of struck lines to insure the continued movement of passenger trains and essential commodities. Legislation along these lines has been introduced by Sen. Williams and Rep. Staggers, and it has our support."

The Council added that it opposes "any proposal for compulsory arbitration of contract terms in private industry, even under such a euphemistic label as 'final offer selection' or 'mediation to finality.'" Any such compulsion is "a violation of the basic principles of democracy," the Council said.

Finally, the Council declared that "if the time has come when rail workers are no longer to be viewed as citizens employed by private industry and are to be denied the right to strike, then Congress should immediately move to nationalize the nation's railroads.

"If railroad workers are nationalized, then the companies must be nationalized," the Council said.

The AFL-CIO, along with the railway unions, rallied behind the Staggers bill, H.R. 3595, and the corresponding Williams bill, S. 832.

This legislation, as heretofore explained, would permit partial or selective strikes, so as to counteract the cry of "national emergency" raised against nationwide strikes.

Under the measure, employes would be able to strike not more than three railroads in each of the three regions, representing not over 40 percent of the rail traffic in each region. Also, the strike bound carriers would be obligated to handle freight or passengers deemed essential by the government. Further, the railroads would be forbidden from spreading the limited shutdown by ordering lockouts on non-struck roads or by unilaterally imposing counter proposals to union demands.

Williams said the bill "is intended to restore to the railroad industry a measure of free collective bargaining and to provide a means whereby labor-management confrontations in this industry may be reduced to less drastic dimensions.

"A basic element in this situation," he explained, "has been a series of court decisions which have ruled that once bargaining for new contracts has been commenced on a nationwide basis, it thereafter constitutes a violation of the Railway Labor Act for a union to strike against individual railroads, even though the union's contracts are with individual railroads.

"Injunctions issued by the courts on the basis of such rulings have forced the railroad unions to choose between striking all railroads or not striking at all. And since, as a final recourse, Congress has regularly intervened to prohibit nationwide strikes, the practical fact is that railroad workers, unlike all other workers in private employment, are essentially deprived of any real right to strike."

Williams said his bill would meet this problem by allowing limited strikes and barring the carriers from expanding such disputes to nationwide proportions. Thereby, he added, "some degree of the free collective bargaining pressure normally found in other industries would be restored to the railroad industry."

By SIDNEY MARGOLIUS, for The Signalman's Journal

Buyers Now Protected From Book, Record-Club 'Negative Options'

VERY SOON, AS THE RESULT of government actions, you and your family will no longer be troubled by that old and often costly sales device used by book and record clubs and encyclopedia companies — the negative option plan. In this method of selling, you sign up for a "membership" and the so-called "club" sends you a book or record unless you notify them within a certain time that you don't want it.

The plan takes advantage of normal forgetfulness or delay in sending back the billing card stating that you don't want the item. Often, too, because of some mix-up—claimed or actual—in receiving the notification or returned items the book or record club continues to send merchandise, and bills you for it. Sometimes, readers have complained to us, they have been away and received notices too late to stop shipments.

Mrs. James Portwood reports that her family had subscribed to books from "Science Program" and after several purchases wanted to discontinue. They notified the book club but kept receiving books. They returned them but got letters threatening that their account would be turned over to a collection agency. We contacted the publishers on behalf of Mrs. Portwood and they said they had received no record of any request to cancel even though she says she wrote four times. But they agreed to drop the claim.

The problem has been especially widespread in the book business with many complaints also about record clubs and encyclopedia supplements. But negative option plans also have been used to sell monthly supplies of vitamin products and other goods.

At hearings on the negative option plan held by the FTC last winter, representatives of consumer organizations protested this selling device. The Virginia Citizens Consumer Council told about one woman who had complained about the negative option plan operated by CBS's Columbia Record Plan, and was told: "We do not wish to obtain any significant number of members on a positive order basis as it is not profitable for us to operate in such a fashion."

As this is written, the FTC is expected to issue an order banning such selling plans very soon. According to Salvatore Sangiorgi, an FTC consumer-contact official, the commission is doing preliminary investigations and trying to get the companies involved to handle complaints as though the order already is in effect.

YOUR MONEY'S WORTH
by Sidney Margolius
DANGEROUS MORTGAGE
PRACTICES HAVE SPREAD AS HOME-SEEKERS GET DESPERATE FOR MORTGAGES IN A PERIOD OF TIGHT MONEY. ESPECIALLY BEWARE SECOND MORTGAGES INVOLVING RELATIVELY SMALL MONTHLY PAYMENTS AND A FINAL BIG "BALLOON" PAYMENT. BUYERS HOPE TO BE ABLE TO REFINANCE THESE MORTGAGES WHEN THEY BECOME DUE. BUT IN EARLIER RECESSIONS THIS PRACTICE RESULTED IN LOSSES OF MANY HOMES!
BALLOON PAYMENT
MORTGAGE LOANS
FHA RULE
A NEW FHA RULE REQUIRES THAT SELLERS TELL YOU THE FHA-APPRAISED VALUE OF THE PROPERTY BEFORE YOU APPLY FOR THE LOAN. THIS RULE CAN HELP PROTECT YOU AGAINST EXAGGERATED PRICES IF YOU USE IT TO GET THE INFORMATION EARLY.
GIVE YOUR DOLLAR MORE POWER
WHEN YOU SHOP FOR WOMEN'S AND CHILDREN'S APPAREL INSIST ON THE LABEL AT THE RIGHT. AT THE LEFT IS THE LABEL OF THE AMERICAN FEDERATION OF STATE, COUNTY AND MUNICIPAL EMPLOYEES.
UNION MADE
ILGWU

The FTC itself initiated its forthcoming new rule because it believed, among other complaints, that sellers using negative option plans failed to disclose clearly in ads to prospects how the plan really worked. The commission also felt that the sellers did not give subscribers enough time to reply to the notices of forthcoming shipments, and failed to terminate memberships immediately after receipt of cancellation notices. Often negative option sellers have continued to send merchandise for several months after being told to cancel.

Sometimes the claimed excuse is that these problems are caused by computers. Bess Myerson Grant, New York City's crusading consumer commissioner, has just won a victory for consumers all over the country by getting an agreement from *Reader's Digest* to drop the computerized claims against people who get a "Condensed Book" they claim they never ordered.

Mrs. Grant explained that the *Reader's Digest* sends out millions of entry forms for sweepstakes contests. In some cases a person enters the contest by checking "yes" or "no" on a card which also asks if he wants to subscribe to the "Condensed Book Club" and buy a series of books.

Once these order forms are received, the information is transferred into a computer and the cards are destroyed.

Thus, "a consumer who claims he checked the 'no' box and refuses to pay for the books is automatically dunned by a computer unable to understand the problem," Mrs. Grant points out. "Human intervention was impossible because there was no way to check the accuracy of the information fed to the machine."

Consumers caught in this technological trap were faced with the choice of paying for unwanted books or risking a blot on their credit rating. Now the Digest has agreed that the first bill will instruct subscribers to notify the company of any question about the bill, and that the account will be cancelled on notification that the books actually were not ordered.

LOCAL LODGE NEWS

By, for and about B. of R. S. members

Canadian National

Montreal, Can. (187). Our regular meeting was held on January 8 at the Queen's Hotel with 16 members present.

The meeting was called to order by Chief Signalman D. Wallace, with all officers in attendance.

Minutes of the previous meeting were read by Secretary-Treasurer A. Hawkley, and approved. The government's Medicare plan along with the new option plan offered by Blue Cross were discussed in lengthy detail.

A local By-Law, Article V, Section 3, covering sick benefits, was amended and approved to read Ten Dollars ($10.00) instead of the former Five Dollars ($5.00) paid to local members in good standing.

Five chartered members of Local 187 were declared eligible to receive their 25 year continuous service pins from the BRS. Grand Lodge Representative H. A. Stockdale on presenting these pins, congratulated and wished Brother J. McCormick, Local Chairman, Brother H. O'Reilly and Brother E. Lajeunesse, many more years of good health and prosperity. Absent for the presentation was Brother L. W. McConnell and Brother E. Anderson.

Remember to support your local by attending the next meeting.

J. McCormick

B&O-WM-SIRT

Hagerstown, MD. The regular first quarter meeting of Local No. 31 was held on February 14, 1971 at the New Howard Hotel, Baltimore, MD. We were honored with the presence of B. H. Steuerwald, vice president, Grand Lodge, Eastern Region. Brother Steuerwald was given the honor of conducting the most interesting meeting. There were four officers and nine members present.

There were 18 new members accepted into the local.

Brothers Edmund K. Dunn, Jr., Pittsburg West, and David J. Olivier, Baltimore East, were reported as new local chairmen.

Brother Phillip L. Mills, Western Maryland leading maintainer, was reported as still on the sick list.

We regret the passing of Brother Carl Shrake, Cumberland, MD. We will all miss him very much.

Vice President Steuerwald spoke briefly about the City of New York taking over the SIRT. All unions are involved in the change. Negotiations are still in progress and it is hoped that a settlement will be reached in the near future.

The second quarter meeting will be held at the Fort Cumberland Hotel, Cumberland, MD., Saturday, April 10, 1971, beginning at 12:15 p.m.

The Western Maryland members will meet at 9:30 a.m., same date.

Edwin V. Williams

Obituary

Ervin L. Ash, retired member of Local 21, Kansas City Terminal Railway Co., passed away March 19. He was 55.

Brother Ash began his railroad career in 1945. He was retired on a physical disability pension.

The officers and members of Local 21 extend their deepest sympathy to the surviving members of his family.

H. E. Nixon

Carl V. McCann, member of Local 79, Penn Central, passed away December 22, 1970.

Grand Lodge Representative H. A. Stockdale, second from left, presented 25 year brotherhood continuous service pins to three members of Local 187. Shown above are, left to right: H. O'Reilly, Grand Lodge Representative H. A. Stockdale, Local Chairman J. McCormick, and E. A. Lejeunnesse.

Brother McCann began service as a helper on September 16, 1940 and held many positions while advancing to the position of C&S Inspector at Plain City, Ohio, the position he held at the time of his death.

He was a member of the American Legion at Hillard, Ohio.

Surviving are his wife and three children to whom the officers and members of Local 79 extend their deepest sympathy. ROBERT E. STEGALL

Basil P. Meller, member of Local 21, Kansas City Terminal Railway Company, passed away February 22 from a heart attack.

Brother "Pete" was foreman of Gang No. 4 with 21 years of service with the Kansas City Terminal Railway Company.

He served in the Navy in World War II and also the Korean War.

Surviving are his wife, father, two stepdaughters, three brothers and a half-brother to whom the officers and members of Local 21 offer their deepest sympathy. H. E. NIXON

SPECIAL NOTICE

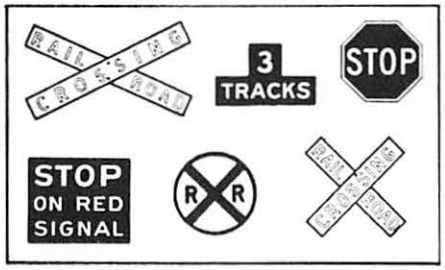
Fort Worth and Denver Employes

The Fort Worth & Denver Hospital Association has been dissolved and all active employes of the Railroad have now become covered under the provisions of GA-23000 with Travelers Insurance Company.

All retired employes, who retained membership in the Association, are now being offered coverage under Plan GA-23111 with Travelers and will receive a letter from Travelers to that effect.

If you are retired and you want the coverage, but have not received the application from Travelers, write Grand Lodge Headquarters immediately and application will be forwarded to you.

RACO® LIGHTENS THE WORK LOAD

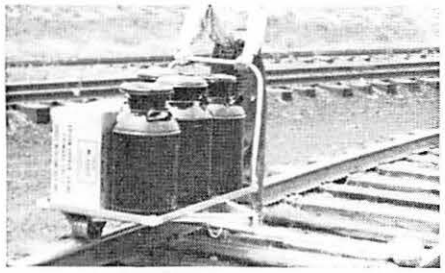


SCOTCH LITE SIGNS

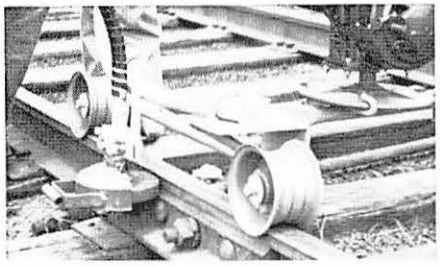
ON ALL MAINTENANCE AND INSTALLATIONS

All signalmen can benefit, making their jobs easier, by putting into use the labor-saving devices shown here. Modern RACO signaling equipment and maintenance aids have been designed to do a better job with less work. Write for additional information about the many RACO labor-saving devices.

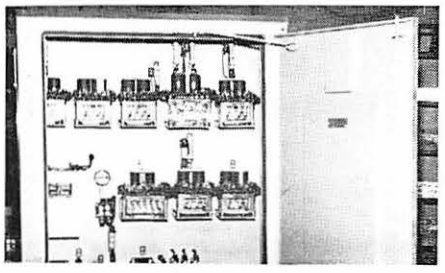
MEMBER RPI RAILWAY PROGRESS INSTITUTE



ALUMINUM DOLLY



RAILBOND GRINDER



INSTRUMENT CASES

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totally

New Cheyenne. Other pickups just went out of style.

CHEYENNE

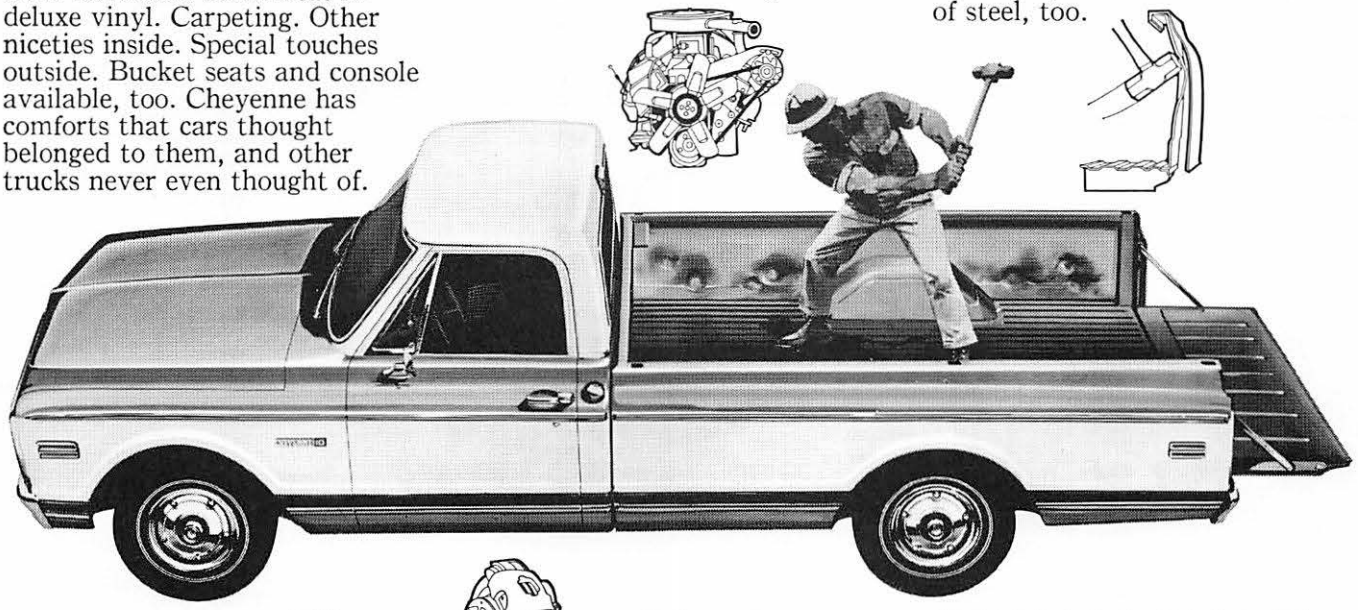
It's our new top-of-the-line pickup. Cheyenne offers a deep foam-cushioned bench seat in deluxe vinyl. Carpeting. Other niceties inside. Special touches outside. Bucket seats and console available, too. Cheyenne has comforts that cars thought belonged to them, and other trucks never even thought of.

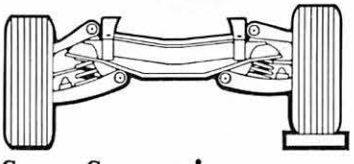
Most V8 power. Biggest standard 6.

No other pickup can top Chevy's V8 power availability. Up to 400 cubic inches. And on ½-tons they don't come any bigger than Chevy's standard 250 Six, either. Three other engines to choose from. They all get along just great on regular, or new no-lead or low-lead gasolines.

Durable double wall cab and box.

We double-wall our Fleetside cargo box side panels top to bottom, not halfway like some pickups. So dings inside don't show outside. (Note our sledge-hammer test below.) Our cab roof, cowl, body sills and upper rear wall panels are two walls of steel, too.



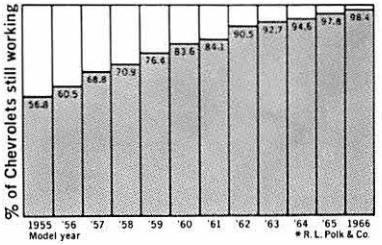


Super Suspension rides smoother.

It's fully independent up front with big coil springs to keep road shock from passing back and forth between the wheels. Or up to the cab and box. In the rear, coil or leaf springs are available—tailored to the loads you carry. So you ride smooth, even when the road isn't. Super Suspension: better because it's proved on more jobs than any other kind.

New fade-resistant disc brakes standard.

You won't find disc brakes standard on most other pickups. You get better fade-resistance, longer brake life. Power assist is standard, too, on ¾- and 1-ton models. And new finned rear brakes on ½-ton models complete Chevy's advanced brake system.



Chevy trucks work longer. Here's proof.

The latest official figures* show how Chevrolets outlast other trucks. Going back as far as 1955, for example, over 56% of the Chevrolets of that model year are still on the job. No competitive make has as many as half of its '55 models still working.

Chevrolet

tougher.

'71 Chevy trucks are here.

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